



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

P Ramesh
Assistant General Manager

Date: April 4, 2019
C.A.863/2018

In the matter of

M/s. Brics Renewable Energy Pvt Ltd.
Temple steps, 3rd floor, Block No.A
Unit B 184-187, Anna salai, Little Mount
Chennai – 600 015

(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/orders made there under, I pass the following

Order

The applicant has filed a compounding application dated November 20, 2018 (received at Reserve Bank on November 27, 2018) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting of inflow of funds received from a person resident outside India for



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allotment of shares (ii) delay in submission of Form FC-GPR to Reserve Bank on allotment of shares and (iii) delay in refund of inward remittance received in terms of Paragraph 9(1)A, Paragraph 9 (1) B and Paragraph 8 respectively, of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000, as then applicable (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant company was incorporated on May 5, 2011 under the provisions of the Companies Act, 1956 (Registration No.U40100TN2011PTC080491) and is engaged in the business of electric power generation using solar energy. The applicant received foreign inward remittances from M/s IBC Solar ventures India B.V., Netherlands towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No	Amount of Foreign Inward Remittance ₹	Date of receipt	Reported to RBI on
1	54,000.00	27.05.2016	08.08.2016
2	59,322.00	30.05.2016	08.08.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from one month 10 days to one month 13 days approximately beyond the stipulated time of 30 days in respect of the remittance at Sl. No. 1 & 2 Whereas, in terms of paragraph 9 (1) A of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

3. The company allotted equity shares and filed FC-GPR as indicated below:

Sl. No.	No. of share allotted	Face Value ₹	Amount ₹	Date of allotment of shares	Reported to RBI on
1	5400	10	54,000.00	30.05.2016	04.08.2017



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The applicant filed the form FC-GPR as indicated above with delay of one year one month five days approximately beyond the stipulated time of 30 days in respect of the above mentioned allotment. Whereas in terms of paragraph 9 (1) B of Schedule I to Notification No. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank a report in Form FC-GPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

4. The company failed to allot shares and refunded one inward remittance received on May 30, 2016 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of Refund
1	30.05.2016	59,322.00	23.12.2016

The company refunded the amount as indicated above with delay of 27 days approximately beyond the stipulated time of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was advised about the contraventions vide memorandum dated October 17, 2018. The applicant has filed a compounding application dated November 20, 2018 wherein it has been declared in the compounding application that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has been declared in the declaration furnished with the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any



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other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect

6. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated March 27, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant appeared for the personal hearing on March 29, 2019 during which Shri P Emerson Andrews, Company Secretary, represented the applicant. The authorized representative of the applicant admitted the contraventions as stated in paras 2 to 4 above for which compounding has been sought. During the personal hearing, it was submitted that the delays were unintentional. In view of the above, they requested Reserve Bank to take a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during the personal hearing.

7. I have given my careful consideration to the documents on record and submission made by the applicant in the compounding application and during the personal hearing. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:

- (a) Paragraph 9 (1) A of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in reporting of receipt of inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of **₹1,13,322.00** with duration of contravention ranging from one month 10 days to one month 13 days approximately;
- (b) Paragraph 9(1)B of Schedule 1 to Notification No. FEMA 20/2000-RB due to delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to persons resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of **₹54,000.00** with the duration of contravention being one year one month five days approximately; and



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(c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB read with AP (Dir Series) Circular No.20 dated December 14, 2007 due to delay in refund of inward remittance received, without prior approval of Reserve Bank as detailed in paragraph 4 above. The contravention relates to an amount of ₹59,322.00 with the duration of contravention being 27 days approximately.

8. In terms of Section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. However, taking into account the relevant facts and circumstances of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and I consider that an amount

of ₹13,914/- (Rupees thirteen thousand nine hundred and fourteen only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, by the applicant on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹13,914/- (Rupees thirteen thousand nine hundred and fourteen only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Chennai within a period of **15 days** from the date of this order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed accordingly.

Dated this Fourth day of April 2019.

Sd/-



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P Ramesh
Assistant General Manager