



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

Shri. Subrata Das
Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)

Date: February 15, 2019
C.A. HYD 365

In the matter of

M/s. Rain Coke Ltd
Plot No. 1071, Road No. 44
Jubilee Hills, Hyderabad- 500033.

(Applicant)

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

Order

The applicant has filed the compounding application dated November 26, 2018 received on December 04, 2018 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in submission of Form FC-GPR to Reserve Bank of India and (ii) taking on record of transfer of shares from resident to non-resident without certified form FCTRS from AD Bank in terms of Paragraph 9(1) (B) of Schedule 1 and Regulation 4 of 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



03, 2000 (hereinafter referred to as Notification No. FEMA 20/2000-RB) as then applicable.

2. The relevant facts of the case furnished to us are as follows:

- a) The applicant is a resident company incorporated as Limited company under the Companies Act, 1956 on 19.03.2012. The activity of the company is Electric power generation using Solar Energy.
- b) The applicant had received foreign inward remittance of ₹ 15,06,26,00/- on 18.09.2015 from SunE Solar B V towards allotment of equity shares and reported to Reserve Bank of India on 01.10.2015, within prescribed period of 30 days from the date of receipt of remittance in terms of Paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000.
- c) The company allotted shares and filed form FC-GPR as indicated below:

SI No.	Name of the Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (INR)	Date of reporting
1	SunE Solar BV	30.09.2015	1,50,62,600	15,06,26,000/-	31.03.2016

The applicant filed form FCGPR for issue of shares amounting to ₹ 15,06,26,000/- as indicated above and the same was reported with delay of 5 months 2 days approximately beyond the stipulated period of 30 days. Whereas in terms of Paragraph 9(1)(B) of Schedule 1 to Notification no. FEMA 20/2000-RB, an Indian company issuing shares in accordance with these Regulations has to submit to Reserve Bank of India a report in form FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.



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d) The company has taken the transfer of shares on record without certified form FCTRS as indicated below:

Name of the transfer or	Name of the transferee	Date of transfer of shares	No. of shares transferred	amount of consideration on INR	Date of taking the transfer on record	Date of AD's certification
Rain Cement s Ltd	SunE Solar B V	31.08.2015	64,97,400	6,49,74,000/-	31.08.2015	06.10.2018

The company has taken the above transfer amounting to Rs.6,49,74,000/- on their record without a certified form FCTRS and the delay period for getting certification from AD is 3 years 1 month 7 days. Whereas in terms of Regulation 4 of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/RB 2000 dated May 03, 2000 as amended from time to time, save as otherwise provided in the Act or Rules or Regulations made thereunder, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person, provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated February 11, 2019 for further submission in person and/or producing documents, if any, in support of the application.



(b) The applicant vide mail dated February 11, 2019 stated that they are foregoing appearing for the personal hearing and requested that the compounding application may be disposed off on the basis of merits in terms of the facts/submission made therein along with the compounding application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9(1)(B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank of India after issue of shares to persons resident outside India and the contravention relates to an amount of **₹ 15,06,26,000/-** with the delay of 5 months 2 days approximately.

(b) Regulation 4 of Notification No. 20/2000-RB for taking the transfer of shares on record without certified form FCTRS from AD Bank and the contravention relates to an amount of **₹ 6,49,74,000/-** with the delay of 3 years 1 month 7 days.

5. It has been declared in the compounding application dated November 26, 2018 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 dated November 26, 2018 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 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 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.



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6. 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 contravention is to be compounded and I consider that an amount of **₹ 2,28,500/- (Rupees Two Lakh Twenty Eight Thousand Five Hundred Only)** will meet the ends of justice.

7. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9(1) (B) of Schedule 1 and Regulation 4 of 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 **₹ 2,28,500/- (Rupees Two Lakh Twenty Eight Thousand Five Hundred Only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 15th day of February 2019

Sd/-

(Subrata Das)

Regional Director (Andhra Pradesh and Telangana) and
Chief General Manager (Hyderabad)