



In the  
**Reserve Bank of India**  
10/3/8, Nrupathunga Road  
Bengaluru-560001

Present

**Ms. M Ramakumari**  
**Deputy General Manager**

Date: January 25, 2019  
**C.A. BGL 342/2018**

In the matter of

**M/s Enerparc Solar Power 1 Private Limited**  
Municipal No.58, 6<sup>th</sup> Floor, Unit No. 601  
HM Towers, Brigade Road  
Bengaluru - 560001  
**(Applicant)**

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

#### **Order**

The applicant has filed a compounding application dated November 12, 2018, received in the office of Reserve Bank of India, Bengaluru, on November 16, 2018, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999, (the FEMA) and the Regulations issued there under. The contravention sought to be compounded is delay in reporting receipt of foreign inward remittances towards subscription to equity, in terms of Paragraph 9(1)(A) 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 03, 2000, and as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts of the case are as follows: The applicant, M/s Enerparc Solar Power 1 Private Limited, was incorporated on July 08, 2013, under the Companies Act, 1956, as per the Certificate of Incorporation issued by the Registrar of Companies, Karnataka. The activity undertaken by the Company is to act in India or elsewhere as purchasers, traders, creators, generators,



manufacturers, producers, procurers, suppliers, distributors, processors, developers, storers, carriers and dealers in renewable energy sources. The applicant had received funds towards share application money from the foreign investors, namely, M/s Enerparc AG, Germany, Mr. Christoph Koeppen, Germany, and M/s MKM Asset Management 3 GmbH, Germany, as shown below:

**Table -1**

<b>Sr. No.</b>	<b>Date of Receipt</b>	<b>Total Amount (INR)</b>	<b>Date of Reporting to RBI / AD Bank</b>
1	14-08-2013	5,00,000.00	21-01-2014
2	15-10-2013	10.00	08-11-2013
3	29-08-2017	20,06,370.00	12-01-2018
4	07-05-2018	1,95,39,780.00	06-06-2018
		<b>2,20,46,160.00</b>	

The applicant reported receipt of remittance to the Reserve Bank / Authorized Dealer Bank, with a delay ranging from three months and fifteen days to four months and eight days, beyond the stipulated time of 30 days in respect of the remittances indicated at serial numbers 1 and 3, in the Table 1 above. 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 applicant was given an opportunity for personal hearing, vide the Reserve Bank's letter FE.BG.FID (CEFA) No. 2386 /22.08.786/2018-19 dated January 21, 2019, for further submission in person and/or producing documents, if any, in support of the application. The applicant's authorized representatives, Mr. Anoop Gannerkote, Director, and Mr. Amlandeep B, Advocate, who appeared for the personal hearing on January 25, 2019, admitted the contravention as stated in paragraph 2 above, committed by the applicant, for



which compounding has been sought. The representatives of the applicant requested that as the contravention was not intentional or with a malafide intention, and was mainly due to inadvertence, a lenient view may be taken in disposal of the application. 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 personal hearing and thereafter.

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

(a) Paragraph 9(1)(A) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in reporting of foreign inward remittances, received towards subscription to equity as detailed in paragraph 2 above. The contravention relates to an amount of **₹25,06,370.00**, and the period of delay ranges from three months and fifteen days to four months and eight days.

5. It has been declared in the compounding application dated November 12, 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 undertaking dated November 12, 2018, furnished as part of 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. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA, 1999. 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.



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 **₹11,245.00, (Rupees Eleven Thousand Two Hundred and Forty Five only)**, will meet the ends of justice.

7. Accordingly, I compound the admitted contravention namely, contravention of Paragraph 9(1)(A) of Schedule I 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 **₹ 11,245.00, (Rupees Eleven Thousand Two Hundred and Forty Five only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2<sup>nd</sup> Floor, 10/3/8, Nrupathunga Road, Bengaluru – 560001, by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Bengaluru 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 of accordingly.

Dated this, the Twenty Fifth day of January, 2019.

**Sd/-**

**(M Ramakumari)**  
**Deputy General Manager**