



In the

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

Present

R Kesavan
Chief General Manager

Date : January 10, 2018
C.A.724/2017

In the matter of

M/s. SEI Bheem Pvt Ltd.
Flat No.6J, Century Plaza,
560-562, Anna Salai,
Teynampet,
Chennai 600018

(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 September 28, 2017 (received at Reserve Bank on October 13, 2017) 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



allotment of shares, and (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank, in terms of Paragraph 9 (1) A and Paragraph 9 (1) B 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.

2. The relevant facts of the case are as follows: The applicant company was incorporated on November 13, 2014 under the provisions of the Companies Act, 1956 (Registration No. U40105TN2014FTC098015) and is engaged in business of Electric power generation using solar energy. The applicant received foreign inward remittances from i) M/s SunEdison Energy Holding (Singapore) Pte. Ltd., Singapore ii) M/s SunE Solar B.V., Netherlands towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in INR	Date of receipt	Reported to RBI on
1	3,08,900.00	03.12.2014	03.01.2015
2	18,82,800.00	16.03.2015	20.03.2015
3	9,58,50,000.00	03.06.2015	12.06.2015
4	6,38,30,000.00	10.06.2015	22.06.2015
5	11,58,15,000.00	04.09.2015	11.09.2015
6	11,60,25,000.00	05.09.2015	08.12.2015
7	20,77,93,000.00	14.01.2016	12.02.2016
8	20,10,90,000.00	14.01.2016	07.04.2016

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay of one month 23 days to two months three days approximately beyond the prescribed period of 30 days in respect of the remittance at Sr. Nos.6 and 8. 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-GPRs as indicated below:

Sl. No	No. of shares allotted	Face Value (in INR.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	30890	10	3,08,900	29.01.2015	13.04.2016
2	188280	10	18,82,800	14.05.2015	13.04.2016
3	75294	10	9,58,49,262	05.06.2015	13.04.2016
4	50141	10	6,38,29,493	11.06.2015	13.04.2016
5	11581500	10	11,58,15,000	16.09.2015	13.04.2016
6	11602500	10	11,60,25,000	30.10.2015	13.04.2016
7	37828830	10	37,82,88,300	30.01.2016	13.04.2017
8	3059470	10	3,05,94,700	15.02.2016	08.12.2017

The applicant filed form FC-GPRs as indicated above with delay ranging from four months 13 days to one year eight months 23 days approximately beyond the prescribed limit in respect of the allotments. 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 applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated January 08, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant has vide mail dated January 08, 2018 intimated that they have chosen not to appear for the personal hearing. The applicant had admitted the contraventions as stated in para 2 and 3 above for which compounding has been sought. It has been submitted that the delays were unintentional. In view of the above, they have requested 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.

5. It has been declared in the compounding application dated September 28, 2017 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 September 28, 2017 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.

6. I have given my careful consideration to the documents on record and submissions made by the applicant in the compounding application. 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 ₹ 31,71,15,000/- with the duration of contravention ranging from one month 23 days to two months three days approximately; and

(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 and the contravention relates to an amount of ₹ 80,25,93,455/- with the duration of contravention ranging from four months 13 days to one year eight months 23 days approximately.

7. 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



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of ₹ 4,44,745/- (Rupees four lakh forty four thousand seven hundred and forty five only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A and 9 (1) B 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 ₹ 4,44,745/- (Rupees four lakh forty four thousand seven hundred and forty five 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 of accordingly.

Dated this Tenth day of January, 2018.

Sd/-

R Kesavan
Chief General Manager