



In the

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

Present

Shri Gopal B Terdal
Assistant General Manager

Date: January 29, 2018
C.A. BGL 251/2017

In the matter of

M/s Energyquote Private Limited
1st Floor, 71, SRT Cunningham Road
Bengaluru - 560052
(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 September 14, 2017, received at this office of Reserve Bank of India, Bengaluru on September 25, 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 receipt of foreign inward remittances towards subscription to equity, (ii) allotment of shares prior to receipt of share application money, and (iii) delay in submission of Form FC-GPRs to the Reserve Bank, after issue of shares to a person resident outside India, in terms of paragraphs 9(1)(A), 8 and 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 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: M/s Energyquote Private Limited, was incorporated on November 10, 2010, under the Companies Act, 1956. The company is engaged in the business of writing, modifying, testing of computer program to meet the needs of a particular client excluding web-page designing. The applicant had received funds towards share application money from the foreign investors, namely, M/s Energy Management Brokers Limited, UK, and Mr Christopher Lydiard Wilson, UK, as shown below:

Table – 1

Sl. No	Date of Receipt	Amount (INR)	Date of Reporting to RBI /AD
1	23-09-2011	99,980.00	14-03-2012
2	28-11-2011	782.63	23-08-2016
	Total	1,00,762.63	

The applicant reported receipt of remittances to the Reserve Bank of India / Authorized Dealer Bank, with a delay ranging from four months and twenty days to four years, seven months and twenty six days approximately, beyond the stipulated period of 30 days in respect of remittances as indicated in Table-1 above at serial numbers 1 and 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. On November 11, 2010, the company had allotted 10,000 equity shares, towards subscription to Memorandum of Association (MoA), (9,998 shares to M/s Energy Management Brokers Limited, UK, and 2 shares to Mr. Christopher Lydiard Wilson, UK). However, foreign inward remittances of Rs. 99,980.00, and Rs. 782.63, were received on September 23, 2011, and November 28, 2011, respectively, with a delay ranging from ten months and twelve days to one year and seventeen days approximately, in contravention of terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB.



4. The applicant company allotted equity shares and filed Form FC-GPRs with Reserve Bank/AD as indicated below:

Table – 2

Sl. No.	Date of Allotment	Amount (INR)	Date of reporting to RBI/AD
1	11-11-2010	1,00,000.00	17-12-2015
	Total	1,00,000.00	

The applicant filed the Form FC-GPR on allotment of shares with the Bengaluru Regional Office of the Reserve Bank of India / Authorized Dealer Bank with a delay of five years and six days approximately, beyond the prescribed period of 30 days in respect of allotment of shares as indicated in Table - 2 above. Whereas, in terms of Paragraph 9(1)(B) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000, an Indian company issuing shares in accordance with these Regulations has to submit to the Reserve Bank of India, a report in Form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares to persons resident outside India.

5. The applicant was given an opportunity for personal hearing, vide the Reserve Bank's letter FE.BG.FID (CEFA) No. 2549/21.09.664/2017-18 dated January 04, 2018, for further submission in person, and/or producing documents, if any, in support of the application. The applicant's authorized representative Shri. Shafeequr Rahman, Head of service delivery, who appeared for the personal hearing on January 19, 2018, admitted the contraventions as stated in paragraphs 2, 3 and 4 above, committed by the applicant, for which compounding has been sought. During the personal hearing, it was submitted that the delay was not willful or with malafide intention, but was mainly due to inadvertence, and the same would not be repeated. In view of the above, he requested to take a lenient view 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.



6. 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 provisions 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 **Rs.1,00,762.63**, and the period of delay ranges from four months and twenty days to four years seven months and twenty six days approximately;

(b) Paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB, due to receipt of the share application money of **Rs.1,00,762.63**, post allotment of shares, with a delay ranging from ten months and twelve days to one year and seventeen days approximately, as detailed in paragraph 3 above; and

(c) Paragraph 9 (1) (B) of Schedule I to Notification No. FEMA 20/2000-RB, due to delay in submission of Form FC-GPRs to the Reserve Bank after issue of shares to persons resident outside India, as detailed in paragraph 4 above. The contravention relates to an amount of **Rs.1,00,000.00**, and the period of delay is five years and six days approximately.

7. It has been declared in the compounding application dated September 14, 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 January 16, 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. 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.

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 **Rs.60,470.00 (Rupees Sixty Thousand Four Hundred and Seventy only)**, will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, contraventions of Paragraphs 9(1)(A), 8 and 9(1)(B) 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 **Rs.60,470.00 (Rupees Sixty Thousand Four Hundred and Seventy only)**, which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 2nd 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 Ninth day of January, 2018.

Sd/-

(Gopal B Terdal)
Assistant General Manager