



In the

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

Present

Arundhati Mech
Regional Director

Date : February 22, 2018
C.A.745/2017

In the matter of

M/s. SunEdison Solar Power India 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 December 04, 2017 (received at Reserve Bank on December 14, 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 07, 2012 under the provisions of the Companies Act, 1956 (Registration No. U74999TN2012PTC088413) 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 Sun Edison Products Singapore Pte Ltd., Singapore towards subscription to equity shares and reported the same to the Reserve Bank as detailed below:

Sl. No.	Amount of Inward Remittance in Rs.	Date of receipt	Reported to RBI on
1	4,46,36,250.00	15.07.2013	24.07.2013
2	1,64,50,000.00	06.09.2013	26.09.2013
3	61,46,000.00	30.10.2013	19.11.2013
4	2,47,36,000.00	06.11.2013	19.11.2013
5	3,07,80,000.00	12.12.2013	23.12.2013
6	4,32,04,000.00	22.01.2014	19.02.2014
7	4,41,50,733.90	30.05.2014	11.06.2014
8	5,43,15,000.00	19.06.2014	27.06.2014
9	5,40,54,000.00	23.06.2014	27.06.2014
10	5,67,72,000.00	14.07.2014	23.07.2014
11	5,56,57,250.00	15.07.2014	23.07.2014
12	24,45,60,000.00	21.10.2014	28.10.2014
13	5,98,78,500.00	29.04.2015	11.05.2015
14	31,86,50,000.00	29.05.2015	05.06.2016
15	25,58,80,000.00	05.06.2015	19.08.2015
16	51,06,40,000.00	10.06.2015	19.08.2015

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from one month nine days to one month 14 days approximately beyond the prescribed period of 30 days in respect of the remittances at



Sl. Nos. 15 and 16. 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 Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	10000	10	1,00,000.00	04.12.2013	24.12.2013
2	7349460	10	9,18,68,250.00	04.12.2013	24.12.2013
3	2462400	10	3,07,80,000.00	10.02.2014	24.02.2014
4	66125779	10	151,82,47,885.84	06.06.2014	04.07.2014
5	6988378	10	8,73,54,725.00	06.06.2014	04.07.2014
6	4345200	10	5,43,15,000.00	20.06.2014	16.07.2014
7	4324320	10	5,40,54,000.00	25.06.2014	16.07.2014
8	8994340	10	11,24,29,250.00	16.07.2014	11.08.2014
9	24456000	10	24,45,60,000.00	17.12.2014	14.01.2015
10	1150361	10	31,86,49,997.00	01.06.2015	24.08.2017
11	2767220	10	76,65,19,940.00	17.06.2015	24.08.2017

The applicant filed form FC-GPRs as indicated above with delay ranging from two years one month seven days to two years one month 23 days approximately beyond the prescribed limit in respect of the allotments at Sl. Nos.10 and 11. 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 vide mail dated January 24, 2018 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 and 3 above for which compounding has been sought. It had been submitted that the delay was unintentional. 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 December 04, 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 December 04, 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/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 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 ₹ 76,65,20,000/- with the duration of contravention ranging from one month nine days to one month 14 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 ₹ 108,51,69,937/- with the duration of contravention ranging from two years one month seven days to two years one month 23 days approximately.



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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

of ₹ 4,88,000/- (Rupees four lakh eighty eight thousand 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 ₹ 4,88,000/- (Rupees four lakh eighty eight thousand 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 Twenty second day of February, 2018.

Sd/-

Arundhati Mech
Regional Director