



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present
Jayant Kumar Dash
Chief General Manager (The Regional Director)

March 28, 2018
CEFA.CO.ID.9540 / C.A.No. AHM- 92 / 2017-18

Matter
M/s Raipar Renewable Energy Pvt. Ltd.
(CIN: U40109GJ2015PTC085095)
9, Omkar Tower, Nirmala Road, Rajkot - 360005
Gujarat

(Applicant)

In exercise of the powers conferred 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:

Order

The applicant has filed compounding application dated December 27, 2017 (Received at Reserve Bank of India on January 1, 2018) 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 beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares / compulsorily convertible



debentures (CCDs) to a person resident outside India; in terms of paragraphs 9(1)(A) and 9(1)(B) respectively, of Schedule 1 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 3rd May 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 company was incorporated on November 18, 2015 under the provisions of the Companies Act, 2013 (CIN: U40109GJ2015PTC085095). The company is engaged in electric power generation using non-conventional sources. The applicant company has received total five inflows amounting to ₹37,07,00,000/- from foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 – Contravention Detected: (Table -1)

Sr. No.	Remitter	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	EDF ENERGIES NOUVELLES	08-07-2016	48440	04-11-2016	89 days
2	EDF EN INDIA WIND	11-07-2016	193760	04-11-2016	86 days
3	EDF EN INDIA WIND	08-07-2016	153070400	04-11-2016	89 days
4	EDF EN INDIA WIND	13-01-2017	108693700	01-11-2017	262 days
5	TWP Holdings (Mauritius) Ltd.	13-01-2017	108693700	24-05-2017	101 days
	Total		370700000		

* The date for calculation of delay under 9(1)(A) taken as date of inflow reporting by Company to AD.

4. The applicant reported the receipt of five inward remittances, amounting to ₹37,07,00,000/- to the Ahmedabad Regional Office of the Reserve Bank of India. All the five inflows amounting to ₹37,07,00,000/- were reported with a delay ranging from



86 to 262 days. Whereas, in terms of paragraph 9(1) (A) of Schedule 1 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. Thus the company stands to contravene the provisions stipulated in paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. The applicant allotted equity shares / compulsorily convertible debentures (CCDs) and filed FC-GPRs as stated below:

Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 –Contravention detected: (Table -2)

Sr. No.	Name of the Foreign Investor	No of shares/ CCDs issued	Amount of shares / CCDs (₹)	Date of issue of shares/ CCDs	Date of submission of FC-GPR to RBI *	Days delay excluding prescribed time of 30 days
1	EDF ENERGIES NOUVELLES	2000	48440	11-07-2016	17-02-2017	191 days
2	EDF EN INDIA WIND	8000 6320000	153264160	11-07-2016	17-02-2017	191 days
3	EDF EN INDIA WIND	2929749	108693700	13-01-2017	03-11-2017	264 days
4	TWP Holdings (Mauritius) Ltd.	2929749	108693687	13-01-2017	18-09-2017	218 days
	Total	12189498	370699987**			

* For calculation of days of delay under 9(1) (B) date of reporting to AD bank is taken as reporting to RBI.

** Excess amount of ₹13/- has been ignored.

6. As indicated in the table above, the applicant has filed four form FC-GPRs amounting to ₹37,06,99,987/-. All the four form FC-GPRs were filed with a delay ranging from 191 to 264 days beyond the prescribed timeline 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/ CCDs 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 / CCDs to the overseas investor. Thus the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.1216/06.04.15(R) CEFA / 2017-18 dated March 9, 2017 for further submission in person and /or producing documents, if any, in support of the application. Applicant has vide their letter dated March 12, 2017 requested to dispose of their application as per documents submitted and sought an exemption from personal hearing with the Compounding Authority. Applicant has admitted in their application to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.

8. It has been declared in the compounding application dated December 27, 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 March 23, 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/him/her 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.



9. I have given my careful consideration to the documents on record and submission made by the applicant. 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 dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards subscription of shares / CCDs as detailed in paragraph 4 above. The amount of contravention involved is ₹37,07,00,000/- and the delay is for approximately 86 to 262 days.

B) Paragraph 9 (1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of form FC-GPR, after issue of shares / CCDs to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹37,06,99,987/- and the delay is for approximately 191 to 264 days .

10. 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 therefore, I consider that amount of penalty of ₹3,54,080/- (Rupees Three lakh fifty four thousand eighty only) will meet the ends of justice.

11. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹3,54,080/- (Rupees Three lakh fifty four thousand eighty only) which shall



be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 28th day of March, 2018.

Sd/-

(Jayant Kumar Dash)

Chief General Manager (Regional Director)