



In the

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

Present

P Ramesh
Assistant General Manager

Date : November 22, 2018
C.A.841/2018

In the matter of

M/s. Greenko Anil Energy Pvt Ltd.
Flat No.6J, Century Plaza
560-562, Anna Salai
Teynampet
Chennai-600 018

(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 October 05, 2018 (received at Reserve Bank on October 24, 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 in reporting of inflow of funds received from a person resident outside India for allotment of shares (ii) delay in submission of Form FC-GPR on allotment of



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shares to Reserve Bank and (iii) delay in allotment of shares in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 8 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 and as then applicable (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 January 21, 2015 under the provisions of the Companies Act, 2013 (Registration No. U40102TN2015FTC098907) and is engaged in business of electric power generation using solar energy. The applicant received foreign inward remittance from i) M/s SunEdison Energy Holding (Singapore) Pte. Ltd., Singapore ii) M/s SunEdison 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	1,00,000.00	27.07.2015	25.01.2018

The applicant reported receipt of remittance to the Reserve Bank as indicated above with delay of two years four months 28 days approximately beyond the prescribed period of 30 days in respect of the remittance. 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 the FC-GPR 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	24.02.2016	26.06.2018

The applicant filed form FC-GPR as indicated above with delay of two years three months two days approximately beyond the prescribed limit in respect of the allotment.



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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 company allotted 10000 shares on 24.02.2016 against the remittance received on 27.07.2015 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	27.07.2015	1,00,000.00	24.02.2016

The company allotted shares with a delay of 28 days approximately without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007, the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant was advised about the contraventions vide memorandum dated September 10, 2018. The applicant has filed a compounding application dated October 05, 2018 wherein it has been declared 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 furnished with the 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. The applicant was given an opportunity for personal hearing vide Reserve Bank's mail dated November 13, 2018 for further submission in person and/or producing



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additional documents, if any, in support of the application. The applicant did not appear for the personal hearing. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 to 4 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

7. I have given my careful consideration to the documents on record and submission 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 ₹ 1,00,000.00 with duration of contravention being two years four months 28 days approximately;
- (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. The contravention relates to an amount of ₹ 1,00,000.00 with the duration of contravention being two years three months two days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹1,00,000.00 with the duration of contravention being 28 days approximately.

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



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the amount for which the contraventions are to be compounded and I consider that an amount

of **₹62,625/-** (Rupees sixty two thousand six hundred and twenty five only) will meet the ends of justice.

9. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 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 **₹62,625/-** (Rupees sixty two thousand six hundred and twenty 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 Twenty second day of November, 2018.

Sd/-

P Ramesh

Assistant General Manager