



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
5th Floor, Amar Building
Sir P M Road
Mumbai - 400 001

Present

J.K. Pandey
Chief General Manager

Date: April 19, 2017
CA No. 4242 / 2016

In the matter of

GreenTek Systems (India) Private Limited
13A, Karve Road, Kothrud
Pune - 411038

(Applicant)

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

Order

The applicant has filed the application dated November 25, 2016 (received in the Reserve Bank on December 08, 2016) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded is non-submission of Annual Performance Reports (APR) for the years 2012 and 2013. The above amounts to the contravention of Regulation 15(iii) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB



dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts are as under: The applicant was incorporated as GreenTek Systems (India) Limited on January 19, 2011 (CIN: U74900PN2011PLC138321). It converted into private limited company and changed its name to GreenTek Systems (India) Private Limited on December 17, 2014. The applicant is engaged in the business of carrying out research and development activities in the field of development of renewable energies. The applicant entered into a Collaborative Development Agreement (CDA) with Infinia Corporation, USA, on September 10, 2012, and invested USD 1 million in this JV. Thirty foreign parties invested in the said JV, the stake of the applicant being to the extent of 2.04%. Due to disinvestment by two major foreign parties, the JV was forced to file for bankruptcy on September 17, 2013, and the ownership of the JV passed on to another management. The applicant was unable to obtain financial statements and hence was unable to submit Annual Performance Reports (APRs), for the said JV for the years ending 2012 and 2013, thus contravening Regulation 15(iii) of FEMA 120/2004-RB. The applicant was exempted from the requirement of submission of APRs, subject to compounding.

3. In terms of Regulation 15 (iii) of Notification No.FEMA.120/2004-RB dated July 07, 2004 as amended from time to time, "An Indian Party which has acquired foreign security in terms of the Regulation in Part I shall submit to the Reserve Bank, through the designated Authorized Dealer, every year on or before a specified date, an Annual performance Report (APR) in Part III of Form ODI in respect of each JV or WOS outside India.....".

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/9820/15.20.67/2016-17 dated March 30, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on April 12, 2017 during which Shri Aashish Bakhle, Director, Shri Asit Jain and Shri Sunil Nanal, represented the applicant. The representatives of the applicant submitted that the applicant



could not submit the required APRs as it could not get the requisite information from the overseas entity, and would not be able to submit the details in future as well, in view of the bankruptcy proceedings of the overseas entity. The applicant, thus, requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Regulation 15(iii) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time. The amount of contravention is USD 1 million (INR 5,26,10,000) and the period of contravention is two years.

6. 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. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 20,000/- (Rupees twenty thousand only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulation 15(iii) of Notification No.FEMA.120/2004-RB dated July 7, 2004, as amended from time to time, on payment of a sum of Rs. 20,000/- (Rupees twenty thousand only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 accordingly.

Dated this the nineteenth day of April, 2017

Sd/-

J.K. Pandey
(Chief General Manager)