



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

R. Subramanian
Regional Director

Date: April 21, 2017
C.A. HYD 200

In the matter of

M/s. Cenerg Global Tools Pvt Ltd
Plot no 62, EPIP
Pashamylaram
Medak District
Telangana-502 307

(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 compounding application dated March 04, 2017 received by us on March 14, 2017 for compounding of contravention 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; and (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares towards subscription to equity to a person resident outside India in terms of Paragraph 9 (1) (A) and Paragraph 9 (1) (B) of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 of Schedule 1 to Foreign Exchange Management (Transfer or Issue



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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:

- a) The applicant is a resident company incorporated on 10.02.2009. The company is engaged in the business of rock drilling and bore drilling machines.
- b) The applicant had received foreign inward remittances from overseas investors towards advance for subscription to equity shares as indicated below:

Sl. No.	Name of Remitter	Total Amount (₹)	Date of Receipt	Date of Reporting
1	Progress Investments LLC	9405256	11.05.2012	07.06.2012
2	Progress Investments LLC	9367630	29.03.2012	08.05.2012
3	Indy Stuart Pty Ltd	5632687	20.12.2013	13.01.2014
4	Indy Stuart Pty Ltd	3664464	18.03.2014	17.04.2014
5	Progress Investments LLC	12929563	18.03.2014	17.04.2014
6	Indy Stuart Pty Ltd	3379170	03.07.2014	09.07.2014
	Total	4,43,78,770		

The applicant reported receipt of remittances towards share subscription amounting to ₹ **4,43,78,770** /- to the Regional Office of Reserve Bank of India and remittances amounting to ₹ **93,67,630** /- was reported with delay of 9 days approximately as indicated above. 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



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the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

c) The company allotted equity shares and filed Form FC-GPRs as indicated below:

SI No	Name of Investor	Date of allotment of shares	Number of shares allotted	Amount for which shares allotted (₹)	Date of reporting
1	Progress Investments LLC	20.07.2012	1875000	18750000	12.01.2013
2	Progress Investments LLC	10.09.2012	2289	22890	12.01.2013
3	Indy Stuart Pty Ltd	15.02.2014	563269	5632690	24.06.2014
4	a. Indy Stuart Pty Ltd b. Progress Investments LLC	15.05.2014	a. 366446 b. 1292956	a. 3664460 b. 12929560	22.12.2014
5	Indy Stuart Pty Ltd	16.08.2014	337917	3379170	22.12.2014
	Total			4,43,78,770	

The applicant filed Form FC-GPRs for the allotment of shares amounting to ₹ 4, 43, 78,770 /- as indicated above with a delay ranging from 3 months 2 days to 6 months 7 days approximately beyond the prescribed limit. Whereas in terms of paragraph 9 (1) (B) of Schedule 1 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.



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3 a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/2186/14.66.003/2016-17 dated April 17, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on April 19, 2017 during which Shri.A.S.N Ganesh, Manager, Accounts and Shri. CA.S. Adinarayana, Chartered Accountant represented the applicant. The representatives of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was due to administrative reasons in the initial period and was not willful or with malafide intention. In view of the foregoing, the applicant 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 the submissions made in this context by the applicant during the personal hearing.

4. 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 1 to Notification No. FEMA.20/ 2000-RB due to delay in reporting of receipt of foreign inward remittances towards subscription to equity shares as detailed above. The contraventions relate to an amount of ₹ **93, 67,630/-** and the duration of contravention is 9 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. 20/2000-RB due to delay in submission of Form FC-GPR to Reserve Bank after issue of shares to persons resident outside India and the contravention relates to an amount of ₹ **4,43,78,770 /-** and the duration of contravention ranges from 3 months 2 days to 6 months 7 days approximately.

5. 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



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case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and I consider that an amount of ₹ 74, 025 /- (Rupees Seventy Four Thousand Twenty Five only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions namely, the contraventions of Paragraph 9 (1) (A) and Paragraph 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 ₹ 74, 025 /- (Rupees Seventy Four Thousand Twenty Five only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favor of the "Reserve Bank of India" and payable at Hyderabad 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 21st day of April 2017.

Sd/-

(R. Subramanian)
Regional Director