



In the

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

Present

R. Subramanian
Regional Director

Date: August 16, 2017
C.A. HYD 229

In the matter of

M/s. China Coal No. 3 Mining (India) Private Limited
Plot no. 213 A
MLA Colony, Banjara Hills
Hyderabad 500034

(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 July 14, 2017 received on July 25, 2017 for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded are (i) delay in reporting receipt of foreign inward remittances; (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 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 as Private Limited Company under the Companies Act, 2013 on 13.01.2016. The company is engaged in the business of specialized construction activities.
- b) The applicant had received foreign inward remittances from two foreign investors towards advance for subscription to equity shares as indicated below.

SI No	Name of Remitter	Total Amount (INR)	Date of Receipt	Date of Reporting
1	Wang Weiwang	3384	01.03.2016	22.07.2016
2	China Coal No. 3 Construction Corporation (Group) Limited	103180	10.03.2016	20.05.2016
3	China Coal No. 3 Construction Corporation (Group) Limited	5363784	09.03.2016	17.05.2016
4	China Coal No. 3 Construction Corporation (Group) Limited	66373208	05.05.2016	20.05.2016
5	China Coal No. 3 Construction Corporation (Group) Limited	66958192	13.07.2016	22.07.2016
6	China Coal No. 3 Construction Corporation (Group) Limited	11576268	03.10.2016	07.10.2016
	Total	150378016		



The applicant reported receipt of remittances towards share subscription amounting to **Rs. 15,03,78,016 /-** to the Regional Office of Reserve Bank of India out of which **Rs. 54,70,348 /-** was reported with a delay ranging from 1 month 8 days to 3 months 21 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 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.

Sl No	Name of investor	Date of allotment of shares	Number of shares/CCPS allotted	Amount for which shares allotted (INR)	Date of reporting
1	Wang Weiwang	12.03.2016	10	100	30.07.2016
2	China Coal No. 3 Construction Corporation (Group) Limited		9990	99900	
3	China Coal No. 3 Construction Corporation (Group) Limited	12.03.2016	157854	5367036	03.08.2016
4	China Coal No. 3 Construction Corporation (Group) Limited	05.05.2016	1952154	66373236	03.08.2016
5	China Coal No. 3 Construction Corporation (Group) Limited	14.07.2016	1969358	66958172	03.08.2016
6	China Coal No. 3 Construction Corporation (Group) Limited	13.10.2016	340479	11576286	12.11.2016



	Total		4429845	150374730	
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The applicant filed form FCGPRs for the allotment of shares amounting to **Rs. 15,03,74,730** /- as indicated above to the Reserve bank of India out of which shares amounting to **Rs. 7,18,40,272** /- was reported with a delay ranging from 1 month 29 days to 3 months 22 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India. The difference amount was refunded to Wang Weiwang on 02.08.2016.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/261/14.66.003/2017-18 dated August 02, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant vide letter dated August 08, 2017 stated that they are foregoing appearing for the optional personal hearing and requested the disposal of the compounding application based on the documents submitted along with the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application.

4. I have given my careful consideration to the documents on record. 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 for delay in reporting the receipt of consideration towards issue of shares amounting to



Rs. 54,70,348 /- and the delay ranges from 1 month 8 days to 3 months 21 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. 20/2000-RB for 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 Rs. 7,18,40,272 /- and the period of contravention ranges from 1 month 29 days to 3 months 22 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 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 Rs. 32,830/- (Rupees Thirty Two Thousand Eight Hundred Thirty 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 Rs. 32,830/- (Rupees Thirty Two Thousand Eight Hundred Thirty 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 favour 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 16th day of August 2017



Compounding of contraventions under FEMA 1999
M/s. China Coal No. 3 Mining (India) Private Limited.
CA No HYD 229

Sd/-

(R. Subramanian)
Regional Director