



In the

Reserve Bank of India
Foreign Exchange Department
11th Floor, Central Office Building
Fort, Mumbai - 400 001

Present

A. O. Basheer
General Manager

Date: October 13, 2017
CA No 4487/2017

In the matter of

Azure Power India Pvt. Ltd.
8, Local Shopping Centre, Pushp Vihar,
Madan Gir, New Delhi 1100062

(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

The applicant has filed a compounding application dated July 07, 2017 (received at the Reserve Bank on August 22, 2017) 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 relates to recording of transfer of shares in the books of the company without obtaining a copy of FCTRS in terms of Regulation 4 of Notification No. FEMA 20/2000-RB dated 3rd May 2000 as amended from time to time (hereinafter referred to as FEMA 20) read with paragraph 6.2 of Annex to AP(DIR Series) Circular No. 16 dated October 4, 2004.



2. The relevant facts of the case are as follows: Azure Power India Pvt. Ltd. (APIPL) is a private limited company incorporated under the Companies Act, 1956 on February 29, 2008 with CIN U40106DL2008PTC174774. The company is engaged in the business of generation of solar power.

3. Mr. Inderpreet Singh Wadhwa and Mr. Harkanwal Singh Wadhwa, were the subscribers to the Memorandum of the company. Mr. Inderpreet Singh Wadhwa transferred 1633 non-repatriable shares to Mr. Satnam Sanghera on September 30, 2010. The transferred shares were held by Mr. Satnam Sanghera as well on non-repatriate basis. The consideration for the transfer was received in NRE account of Mr. Inderpreet S Wadhwa.

Azure Power Global Limited (APGLM), is a company registered in Mauritius on January 30, 2015 located at AAA Global Services Limited, 1st Floor, Global Exchange, 18 Cybercity, Ebene, Mauritius. Mr. Satnam Sanghera, the applicant company and APGLM entered into a share purchase agreement on July 28, 2015 for selling Mr. Sanghera's shares numbering 1633 to APGLM for a value of Rs.3710/- per share aggregating to Rs.60,58,430/-. The shares were transferred on October 23, 2015 and the proceeds were credited to Mr. Sanghera's NRO account in India on the same day. Form FCTRS was filed on December 5, 2015 with Citibank and the bank's acknowledgement was obtained on January 15, 2016. APIPL had recorded the transfer in its books on February 10, 2016 i.e. before the approval had been obtained from the RBI. However, as the transfer of shares from the Non-Resident Indian to Non-Resident company required prior approval of Reserve Bank of India (RBI), the applicant was advised on October 24, 2016 to apply to the RBI for approval. The applicant filed for approval on November 24, 2016 and was granted post-facto approval vide letter no. FED.CO.FID.No.6896/10.21.389/2016-17 dated January 11, 2017.

4. Whereas in terms of Regulation 4 of FEMA 20, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person provided that the Reserve Bank may, on an application made to it and for sufficient reasons permit an



entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary. Further, in terms of paragraph 6.2 of Annex to AP(DIR Series) Circular No. 16 dated October 4, 2004, when the transfer is on private arrangement basis, on settlement of the transactions, the transferee/his duly appointed agent should approach the investee company to record the transfer in their books along with the certificate in the form FC-TRS from the AD branch that the remittances have been received by the transferor. On receipt of the certificate from the AD, the company may record the transfer in its books.

5. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter No. FE.CO.CEFA / 2856 / 15.20.67 / 2017-18 dated September 29, 2017 for further submission in person and/or producing documents, if any, in support of the application. The representative of the applicant, Mr.Kapil Sharma, in his email dated October 6, 2017 mentioned that all the submissions had already been made in the compounding application and the compounding authority may, therefore proceed *ex-parte*. The applicant has admitted the contraventions committed by the applicant for which compounding has been sought. The applicant has stated that the transfer before the receipt of certificate from Authorised Dealer was erroneously recorded the out of ignorance of FEMA. However, there was no malafide intention in this regard and a lenient view may be taken 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 as other documents and submissions made in this context by the applicant.

6. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant has contravened Regulation 4 of Notification FEMA 20/2000-RB and the amount involved is Rs.60,58,430/- and the duration is about eleven months approximately.



7. 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 I consider that an amount of Rs.16,416/- (Rupees Sixteen thousand four hundred and sixteen only) will meet the ends of justice.

8. Accordingly, I compound the admitted contraventions namely, the contraventions of regulation 4 of 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.16,416/- (Rupees Sixteen thousand four hundred and sixteen 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 of accordingly.

Dated this the 13th day of October, 2017

Sd/-

(A.O. Basheer)
General Manager