



In the
Reserve Bank of India
Foreign Exchange Department
3rd Floor
15, Netaji Subhash Road
Kolkata-700001

Present

Raj Kumar Das
Deputy General Manager

Date: - October 12, 2017
C.A 060/2017

In the matter of

M/s Tavrada Electric India Pvt Ltd

15 NC Block A New Alipore, Kolkata- 700053, West Bengal, India

(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 4, 2017(received at Reserve Bank on October 6, 2017)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 delay in submission of form FC-GPR to the Reserve Bank of India after issue of shares to a company/entity/person resident outside India beyond the stipulated period of 30 days in terms of paragraph 9(1) B to schedule 1 of 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 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: - The applicant was incorporated under the Companies Act, 1956 on July 30, 2008. The main objective of the applicant is business of electrical, electronic, mechanical, hydraulic and manufacture, repairs and dealing in electric, magnetic, galvanic apparatus, machinery and appliances, manufacturers, suppliers of all kinds of light, heat, sound and power, anything or articles capable of being used in connection with generation, transmission, distribution, supply, accumulation and employment of electricity etc. The applicant had received inward foreign remittances as Foreign Direct Investment (FDI) from its parent company, Tavrida Electric AG, incorporated in Switzerland for subscription to its equity shares on the following occasions as tabulated below:-

M/s Tavrida Electric India Pvt Ltd:-

Inflow of foreign remittance (FDI) and utilisation thereof:-

Table 1-

SI	Amt(INR)	Date of inflow	Date of reporting to RBI	Delay u/s 9(1) A	Date of allocation of shares	Date of reporting to RBI	Delay u/s 9(1)B
1	24,12,600	13.08.14	01.09.14	Nil	09.10.14	10.11.14	Nil
2	18,43,000	25.04.16	20.05.16	Nil	20.06.16	25.11.16	4m6d
3	22,07,100	31.05.16	27.06.16	Nil	22.07.16	25.11.16	3m5d
4	18,40,000	28.06.16	18.07.16	Nil	24.08.16	25.11.16	2m2d
5	10,99,500	04.08.16	16.08.16	Nil	28.09.16	25.11.16	28d
6	18,35,250	31.08.16	09.09.16	Nil	26.10.16	25.11.16	Nil
7	22,01,700	23.09.16	29.09.16	Nil	17.11.16	29.11.16	Nil
Tot	1,34,39,150						

The applicant reported the receipt of advance remittances amounting to Rs.1,34,39,150 to this office on the above mentioned dates within the stipulated period of 30 days and hence there is no contravention u/s 9(1) A of Schedule 1 of FEMA 20/2000-RB.



3. The applicant allotted equity shares for a face value of Rs.10/- per share and filed FC-GPRs on dates indicated in the above table. The delay in filing FC-GPRs ranges from 28 days to 4 months and 6 days beyond the stipulated period of 30 days from the date of allocation of shares. As per provisions of para 9(1) B of schedule 1 to 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/company/entity resident outside India. The applicant is therefore observed to be in contravention of para 9(1) B of schedule 1 of FEMA 20/2000-RB.

4. The applicant has allotted equity shares to its foreign investor (parent company) on dates as mentioned in the table above. Under the provisions of para 8 of schedule 1 of FEMA 20/2000-RB an Indian company receiving an amount of consideration for issue of shares to a foreign investor has to do so within a period of 180 days from the date of receipt of remittance. Thus there is no contravention under this section.

5. The applicant was given an opportunity for personal hearing vide this office's letter No. Kol. FED.FID. 556/03.39.716/2017-18 dated October 10, 2017 for further submission in person and/or producing documents, if, any, in support of the application. The applicants Shri Asoke Kumar Banerjee Managing Director and Shri Avijit Banerjee Executive Director appeared for personal hearing on October 12, 2017. The applicants admitted the contravention as stated in paragraph 3 above for which compounding was sought. During the personal hearing, the applicants submitted that the delay had happened inadvertently due to lack of information.

The applicant further submitted that the contravention was not on account of wilful or mala fide intent. In view of this, the applicant requested to take a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submission made in this context by the applicant during personal hearing and thereafter.



6. I have given 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) B of schedule 1 of 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/company/entities resident outside India as detailed in paragraph 3 above. The contravention relates to an amount of **Rs.29,39,500** and the period of contravention is **2 months 2 days** approximately.

7. In terms of section 13 of the FEMA, any person contravening any provision of the act shall be liable for a penalty up to thrice the sum of the contravention upon adjudication. However, considering the circumstances leading to the delay and other relevant facts of the case, I am inclined to take a lenient view of the amount for which the contravention is to be compounded and I consider that an amount of **Rs.16,251 (Rupees Sixteen Thousand two hundred and fifty one only)** will meet the end of justice.

8. Accordingly, I compound the admitted contraventions namely the contraventions of 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 Proceeding) Rules, 2000 on payment of an amount of **Rs.16,251 (Rupees Sixteen thousand two hundred and fifty one only)** which is to be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Third Floor, 15 N.S. Road, Kolkata-700001 by a demand draft drawn in favour of "Reserve Bank of India" and payable at "Kolkata" 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 Proceeding) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed of accordingly.

Dated this twelfth day of October 2017.



Tavrida Electric India Pvt Ltd C.A No 060/2017

Sd/-

(Raj Kumar Das)

Deputy General Manager