



In the

Reserve Bank of India
Foreign Exchange Department
Fort Glacis, No.16, Rajaji Salai
Chennai 600 001

Present

R Kesavan
Chief General Manager

Date : September 08, 2017
C.A.676/2017

In the matter of

M/s. Enerlife (India) Pvt Ltd.,
No.11, Bank Street,
Kilpauk, Chennai-600010

(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 June 27, 2017 (received at Reserve Bank on June 29, 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 (i) delay in reporting of inflow of funds received from a person resident outside India for allotment of



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shares (ii) delay in submission of Form FC-GPR on allotment of shares with Reserve Bank and (iii) delay in allotment of shares in terms of Paragraph 9 (1) A, Paragraph 9 (1) B and Paragraph 8 respectively, of Schedule I 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 May 3, 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: The applicant company was incorporated on June 16, 2014 under the provisions of the Companies Act, 1956 (Registration No. U74900TN2014PTC096177) and is engaged in business of manufacture of biscuits, cakes, pastries, rusks etc. The applicant received foreign inward remittances from M/s Ener Life Pte. Ltd., Singapore towards subscription to equity shares and reported the same to the Reserve Bank as below:

Sl. No	Amount of Foreign Inward Remittance (in Rs.)	Date of receipt	Reported to RBI on
1	17,49,954.00	10.02.2015	29.01.2016
2	3,07,180.60	26.02.2015	21.04.2016
3	1,49,95,683.00	09.03.2015	29.01.2016
4	88,200.00	09.03.2015	29.01.2016
5	2,19,42,493.00	20.03.2015	20.05.2016
6	12,77,721.00	27.04.2015	20.05.2016
7	95,92,221.63	05.05.2016	21.02.2017
8	40,43,223.18	05.05.2016	02.06.2016
9	34,38,954.32	01.06.2016	20.03.2017
10	40,84,851.63	30.06.2016	21.02.2017
11	33,35,872.64	02.08.2016	21.02.2017
12	44,10,798.08	30.08.2016	13.03.2017
13	38,02,733.00	30.09.2016	21.02.2017
14	43,41,594.60	28.10.2016	21.02.2017
15	1,17,40,106.60	28.10.2016	21.02.2017
16	41,36,764.80	15.11.2016	09.01.2017
17	43,45,258.61	28.11.2016	21.02.2017
18	33,74,473.80	28.11.2016	21.02.2017
19	83,20,390.59	20.12.2016	21.02.2017



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20	39,85,636.90	27.12.2016	09.01.2017
21	39,98,916.96	29.12.2016	09.01.2017
22	40,27,392.26	30.01.2017	08.03.2017
23	44,29,650.23	01.03.2017	23.03.2017
24	41,03,755.99	30.03.2017	24.04.2017
25	1,14,73,705.05	13.04.2017	09.05.2017
26	45,10,502.29	28.04.2017	23.05.2017
27	1,38,97,362.60	11.05.2017	29.05.2017
28	45,40,066.30	01.06.2017	09.06.2017
29	1,97,05,022.34	12.06.2017	23.06.2017
30	45,44,175.20	23.06.2017	20.07.2017
31	52,08,154.20	25.07.2017	29.07.2017
32	49,89,432.48	01.08.2017	14.08.2017
33	90,63,470.85	11.08.2017	28.08.2017
34	1,72,82,140.20	18.08.2017	28.08.2017

The applicant reported receipt of remittances to the Reserve Bank on dates indicated above with delay ranging from six days to one year one month approximately beyond the stipulated time of 30 days in respect of the remittance at Sl. Nos.1 to 7, 9 to 19 and 22. Whereas, in terms of paragraph 9 (1) A of Schedule I 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.

3. The company allotted equity shares and filed FC-GPR as indicated below:

Sl. No.	No. of shares/CCPs allotted	Face Value (in Rs.)	Amount (INR)	Date of allotment of shares	Reported to RBI on
1	403612	100	4,03,61,200	26.03.2016	22.06.2017
2	769518	100	7,69,51,800	15.02.2017	22.06.2017
3	125608	100	1,25,60,800	31.03.2017	02.08.2017

The applicant filed the form FC-GPR as indicated above with delay ranging from three months one day to one year one month 26 days approximately beyond the stipulated time of 30 days in respect of the allotments. Whereas in terms of paragraph 9 (1) B of



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Schedule I 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.

4. Against 11 remittances received between 10.02.2015 and 02.08.2016, the company allotted shares on 26.03.2016 and 15.02.2017 as detailed below:

Sl. No.	Date of receipt	Amount (INR)	Date of allotment
1	10.02.2015	17,49,954.00	26.03.2016
2	26.02.2015	3,07,180.60	26.03.2016
3	09.03.2015	1,49,95,683.00	26.03.2016
4	09.03.2015	88,200.00	26.03.2016
5	20.03.2015	2,19,42,493.00	26.03.2016
6	27.04.2015	12,77,689.40	26.03.2016
7	05.05.2016	95,92,221.63	15.02.2017
8	05.05.2016	40,43,223.18	15.02.2017
9	01.06.2016	34,38,954.32	15.02.2017
10	30.06.2016	40,84,851.63	15.02.2017
11	02.08.2016	33,35,872.64	15.02.2017

The company allotted shares with delay ranging from 13 days to seven months 16 days approximately beyond the prescribed period of 180 days without prior approval of Reserve Bank. Whereas in terms of paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB, read with AP (Dir Series) Circular No.20 dated December 14, 2007 the shares have to be issued/amount refunded within 180 days from the date of receipt of the inward remittance.

5. The applicant vide letter dated July 10, 2017 chose not to appear for the personal hearing for any further submission in person and/or producing documents, if any, in support of the application. The applicant, in the compounding application, had admitted the contraventions as stated in para 2 to 4 above for which compounding has been sought. It had been submitted that the delays were unintentional. The application for compounding is, therefore, being considered on the basis of the averments made in the



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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 submission made by the applicant in the compounding application. 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 inward remittances towards subscription of equity shares as detailed in paragraph 2 above. The contravention relates to an amount of ₹ 10,93,12,644.16 with duration of contravention ranging from six days to one year one month approximately;
- (b) Paragraph 9 (1) B of Schedule 1 to 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 resident outside India. The contravention relates to an amount of ₹ 12,98,73,800/- with the duration of contravention ranging from three months one day to one year one month 26 days approximately; and
- (c) Paragraph 8 of Schedule I to Notification No. FEMA 20/2000-RB due to delay in allotment of shares without prior approval of Reserve Bank. The contravention relates to an amount of ₹ 6,48,56,323.40 with the duration of contravention ranging from 13 days to seven months 16 days 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 ₹ 5,29,359/- (Rupees five lakh twenty nine thousand three hundred and fifty nine only) will meet the ends of justice.



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8. Accordingly, I compound the admitted contraventions namely, the contraventions of paragraphs 9 (1) A, 9 (1) B and 8 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 ₹ **5,29,359/-** (Rupees five lakh twenty nine thousand three hundred and fifty nine only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, Fort Glacis, No.16, Rajaji Salai, Chennai - 600 001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Chennai 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 Eighth day of September, 2017.

Sd/-

R Kesavan
Chief General Manager