



In the
Reserve Bank of India
Foreign Exchange Department
Ahmedabad-380009

Present

Jayant Kumar Dash
Chief General Manager (The Regional Director)

October 09, 2017
CEFA.CO.ID.8090 / C.A.No. AHM- 89 / 2017-18

Matter

M/s Sukavala Renewable Energy Pvt. Ltd.
(CIN: U40100GJ2015PTC084653)

9, Omkar Tower, Nirmala Road, Rajkot - 360005
Gujarat

(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:

Order

The applicant has filed compounding application dated July 7, 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 beyond 30 days in reporting receipt of foreign inward remittance towards subscription to equity and (ii) delay beyond 30 days in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India; in terms of paragraphs 9(1)(A) and 9(1)(B) respectively, 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: The applicant company was incorporated on October 5, 2015 under the provisions of the Companies Act, 2013 (CIN: U40100GJ2015PTC084653). The company is engaged in electric power generation using non-conventional sources. The applicant company has received total seven inflows amounting to ₹99,48,26,848/- from foreign investors under automatic route and reported the same to Reserve Bank of India as indicated below:

3. Para 9(1) (A) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3,

2000 – Contravention Detected:

(Table -1)

Sr. No.	Remitter	Date of receipt	Amount of foreign inward remittance (₹)	Date of reporting to RBI*	Days delay excluding prescribed time of 30 days
1	EDF Energies Nouvelles S.A.	28/03/2016	1,31,860	11/04/2016	No delay
2	EDF EN INDIA WIND	28/03/2016	5,27,440	11/04/2016	No delay
3	EDF EN INDIA WIND	28/03/2016	27,57,26,183	11/04/2016	No delay
	Total A		27,63,85,483		
4	EDF EN INDIA WIND	10/06/2016	22,00,00,000	20/07/2016	10 days
5	EDF EN INDIA WIND	03/10/2016	14,99,99,011	10/11/2016	8 days
6	EDF EN INDIA WIND	04/07/2016	22,32,88,313	05/10/2016	63 days
7	EDF EN INDIA WIND	30/12/2016	12,51,54,041	19/07/2017	171 days



	Total B		71,84,41,365		
	Total A + B		99,48,26,848		

* The date for calculation of delay under 9(1)(A) taken as date of inflow reporting by Company to AD.

4. The applicant reported the receipt of seven inward remittances, amounting to ₹99,48,26,848/- to the Ahmedabad Regional Office of the Reserve Bank of India. Out of seven inflows four inflows amounting to ₹71,84,41,365/- were reported with a delay ranging from 8 to 171 days. 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. Thus the company stands to contravene the provisions stipulated in paragraph 9(1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

5. The applicant allotted equity shares / compulsorily convertible debentures (CCDs) and filed FC-GPRs as stated below:

Para 9(1) (B) – Schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000 –Contravention detected: (Table -2)

Sr. No.	Name of the Foreign Investor	No of shares/ CCDs issued	Amount of shares / CCDs (₹)	Date of issue of shares/ CCDs	Date of submission of FC-GPR to RBI*	Days delay excluding prescribed time of 30 days
1	EDF Energies Nouvelles S.A.	4192105	27,63,85,483	02/04/2016	20/05/2016	18 days
2	EDF EN INDIA WIND	3336872	21,99,99,971	13/06/2016	24/10/2016	103 days
3	EDF EN INDIA WIND	2275126	14,99,99,057	03/10/2016	17/02/2017	107 days



4	EDF EN INDIA WIND	3386748	22,32,88,296	04/07/2016	26/04/2017	266 days
5	EDF EN INDIA WIND	1898286	12,51,53,996	30/12/2016	11/09/2017	225 days
	Total	15089137	99,48,26,803			

* For calculation of days of delay under 9(1)(B) date of reporting to AD bank is taken as reporting to RBI.

6. As indicated in the table above, the applicant has filed five form FC-GPRs amounting to ₹99,48,26,803/-. All the five form FC-GPRs were filed with a delay ranging from 18 to 266 days beyond the prescribed timeline of 30 days. Whereas, in terms of paragraph 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares/ CCDs in accordance with these Regulations has to submit to the Reserve Bank of India a report in form FC-GPR, along with documents prescribed therein, within 30 days from the date of issue of shares / CCDs to the overseas investor. Thus the company stands to contravene the provisions stipulated in Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000- RB dated May 3, 2000.

7. The applicant was given an opportunity for personal hearing vide our letter FE.AH.No.460/06.04.15 (S200) CEFA/2017-18 dated October 3, 2017 for further submission in person and /or producing documents, if any, in support of the application. Applicant has vide their letter dated October 5, 2017 requested to dispose of their application as per documents submitted and sought an exemption from personal hearing with the Compounding Authority. Applicant has admitted in their application to the contraventions for which compounding has been sought and stated that the non-compliance was not intentional and was an inadvertent error on the part of the Company and they deeply regret the delay caused and requested to take lenient view. They also stated that they are willing to accept any direction/ order of the Compounding authority in connection with their compounding application.



8. I have given my careful consideration to the documents on record and submission made by the applicant. 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 dated May 3, 2000: Due to delay in reporting of receipt of foreign inward remittances towards subscription of shares / CCDs as detailed in paragraph 4 above. The amount of contravention involved is ₹71,84,41,365/- and the delay is for approximately 8 to 171 days.

B) Paragraph 9 (1) (B) of Schedule 1 of FEMA Notification FEMA 20/2000 – RB dated May 3, 2000: Due to delay in submission of form FC-GPR, after issue of shares / CCDs to persons resident outside India as detailed in paragraph 6 above. The amount of contravention involved is ₹99,48,26,803/- and the delay is for approximately 18 to 266 days .

9. 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 therefore, I consider that amount of penalty of ₹3,27,000/- (Rupees Three lakh twenty seven thousand only) will meet the ends of justice.

10. Accordingly, I compound the admitted contraventions, namely contravention of paragraph 9(1) (A) and 9(1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 03, 2000, by the applicant, on the facts discussed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of ₹3,27,000/- (Rupees Three lakh twenty seven thousand only) which shall



be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, La-Gajjar Chambers, Ashram Road, Ahmedabad –380 009 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at Ahmedabad 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 the 09th day of October, 2017.

Sd/-

(Jayant Kumar Dash)
Chief General Manager (Regional Director)