



FEMA

February 12, 2024

Applicable FEMA Provisions

Foreign Exchange Management (Overseas Investment) Rules, 2022 & Foreign Exchange Management (Overseas Investment) Regulations, 2022 read along with Master Direction on ODI.

Reporting Compliance

- Filing of APR with AD bank.
- Submission of share certificates to AD Bank.

Type of Contravention

- Delay in submission of Annual Performance Report (APR).
- Non reporting of change in capital structure in the foreign entity.
- Delay in submission of share certificates beyond prescribed limit of six months

Penal Action

- Late submission Fees (LSF) based on value of allotment.
- Compounding.
- Enquiry by Directorate of Enforcement.

Compounding Order

Modular Power Private Ltd. ("The Company") & Reserve Bank of India, Foreign exchange department, Mumbai vide compounding order no. C.A. No. 4707/2018 Dt. Nov 6, 2018.

The Company had made overseas investment in JV in Germany. Due to global recession, there was delay in forming the JV and subsequently delay in getting confirmation of share allotment.

Further because of delay in receiving share certificate from the Overseas entity, there was delay in submitting share certificate with AD bank beyond 6 months and also delay in filling APRs.

Contravention of paragraphs 15(i), 16(1)(v) and 15(iii) of Notification No 120/2004-RB dated July 7, 2004, as amended from time to time.

RBI's stance was that the company obliges to receive share certificates from overseas entity & to submit the same with AD Bank within 6 months and to file APRs within the stipulated time period.

**Compounding Penalty levied for
₹ 1,33,838**

This document is prepared exclusively for the benefit and use of member firms of KCM Network and their clients. For further analysis and discussion, you may please reach out to our regulatory experts, Ms. Darshana Mankad at darshana.mankad@kcmmehta.com and Mr. Nitin Dingankar at nitin.dingankar@kcmmehta.com.