



In the

Reserve Bank of India  
Foreign Exchange Department  
3<sup>rd</sup> Floor  
15, Netaji Subhas Road  
Kolkata – 700 001

Present

**Shri Rajendra Srivastava**  
**Assistant General Manager**

Date: January 31, 2020  
C.A.126/2019

In the matter of

**M/s W. HUNGER HYDRAULICS INDIA PRIVATE LIMITED**  
NEW PLOT NO. 1, POLY PARK SANKRAIL  
P.O. DHULAGORI, HOWRAH  
WB 711302  
(Applicant)

In exercise of the powers under section 15 (1) of the Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made thereunder, I pass the following

### **Order**

The applicant had filed a compounding application dated November 21, 2019 (received at Reserve Bank on November 25, 2019) for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The contraventions sought to be compounded is for taken on record transfer of shares from resident to non-resident without consideration which is contravention to Regulation 4 of 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, **M/s W. Hunger Hydraulics India Private Limited** was incorporated September 18, 2006 and is in the business of Manufacture of other plastics products n.e.c.(NIC Code 2008-22209).

3. 990 equity shares of M/s W. Hunger Hydraulics India Private Limited were initially held by one of the share holder of the company Mr. B.K. Mukherjee, Kolkata. Upon demise of Mr. Mukherjee, the heirs of him voluntarily had transferred these 990 shares to Ms. Daniela Regina Hepp, Germany (one of the directors of the Indian company) on May 30, 2012. The transfer of shares was in the nature of gift without consideration of money. Later Ms. Daniela Regina Hepp expressed her desires to return those 990 shares without consideration and the buy-back of 990 shares has been completed by the company with all regulatory formalities on July 11, 2019 as given in table 1 below.

| Transfer of shares from Resident to Non-Resident   |                                |                                 |                         |                            |  |                                       |                      |
|--|--------------------------------|---------------------------------|-------------------------|----------------------------|--|---------------------------------------|----------------------|
| Table 1. Contravention of Regulation 4 of Notification No. FEMA 20/2000-RB dated May 03, 2000. |                                |                                 |                         |                            |  |                                       |                      |
| Sl. No.  | Number of instruments (Equity) | Negotiated Price Per Instrument | Amount of Consideration | Date of Transfer of shares | Date of taking on record of share transfer | Date of completing buy-back of shares | Contravention (days) |
| 1  | 990.00                         | 10.00                           | 9900                    | 30-May-12                  | 30-May-12                                  | 11-Jul-19                             | 2598                 |

The difference between date of taking on record of share transfer from resident to non-resident and the date of completing buy-back of those shares is 2598 days This delay of 2598 days is being treated as material contravention and subjected to compounding in terms of Regulation 4 of Notification No. FEMA 20/2000-RB dated May 03, 2000.

4. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.1158/06.01.002/2019-20 dated January 27, 2020 for further submission in person and/or producing documents, if any, in support of the application. The applicant, represented by Shri Gautam Banerjee



(Authorized Representative), appeared for personal hearing on January 31, 2020. The representative of the applicant admitted the contraventions as stated in para 3 of this Order.

5. It has been declared in the compounding application dated November 21, 2019 that the particulars given by the applicant in the application are true and correct to the best of their/his/her knowledge and belief. It has been declared in the declaration furnished with the compounding application that the applicant was not under any enquiry/investigation/adjudication by any agency as on the date of the application and has, in this regard, not informed of initiation of any such enquiry/investigation/adjudication proceedings against it/him/her thereafter. It has further been declared that the applicant has not filed any appeal under section 17 or section 19 of FEMA, 1999. Accordingly, the above contraventions which are being compounded in this Order are subject to the veracity of the above declarations made by the applicant and this order is without prejudice to any other action which may be taken by any authority under the extant laws if the said declarations are subsequently discovered to be false and/or incorrect.

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 provisions of Regulation 4 of FEMA 20/2000-RB dated May 3, 2000. The contravention relates to an amount of INR **9,900**.

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 which led 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 **INR 3,589 (Rupees Three Thousand Five Hundred and Eighty Nine only)** will meet the end of justice.

8. Accordingly, I compound the admitted contravention to Regulation 4 of FEMA 20/2000-RB dated May 3, 2000 by the applicant on the facts discussed above in



terms of the Foreign Exchange (Compounding Proceeding) Rules, 2000 on payment of an amount INR 3,589 (Rupees Three Thousand Five Hundred and Eighty Nine only), which are to be deposited by the applicant with the Reserve Bank of India, Kolkata by a demand draft in favor of Reserve Bank of India and payable at Kolkata within 15 days from the date of issue of the 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 03, 2000 shall apply.

9. The application is disposed of accordingly.

Dated this Thirty First day of January, Two Thousand and Twenty.

Sd/-  
(Rajendra Srivastava)  
Assistant General Manager