



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
5<sup>th</sup> Floor, Amar Building  
Sir P M Road  
Mumbai - 400 001

Present

**Meenakshi Ganju**  
**General Manager**

Date: November 11, 2019  
CA No.4976/ 2019

In the matter of

**Delval Flow Controls Private Limited**  
**Row House No. 101 & 102, Survey No. 54/3/4, Near Nikhil Garden,**  
**Wadgaon Budruk, Pune- 411 041**

**(Applicant)**

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

**Order**

The applicant has filed the application dated July 15, 2019 (received in the Reserve Bank on July 19, 2019, for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder, for (i) Non-repatriation of loan and interest due before undertaking the disinvestment by the IP, (ii) delay in submission of Annual Performance Reports (APR) for the years 2011 and 2012 and non-submission of APR for the truncated period from January 1, 2013 to March 19, 2013 in contravention of Regulations 15(ii), 15(iii) and 16(1)(iv) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 notified



vide Notification No. FEMA 120/2004-RB dated July 7, 2004 as amended from time to time (hereinafter referred to as Notification No. FEMA 120/2004-RB).

2. The relevant facts of the case are as under:

The applicant company was incorporated on October 20, 2005 (CIN U29299PN2005PTC021445) and is engaged in the business of manufacturing, buying and selling of flow control products, valves and valve automation, etc. The applicant invested USD 3,000 in an overseas JV viz., Deltech Controls Rus L.L.C in Russia on October 14, 2010. The applicant also remitted USD 18,000 and USD 23,546 on October 14, 2010 and April 26, 2011 respectively towards loan. The applicant did not receive back the amount it lent and the interest due thereon from the overseas JV, which is in contravention of Regulation 15(ii) of Notification No. FEMA 120/ 2000-RB dated July 07, 2004. Further, the applicant submitted APRs for the years 2011 and 2012 with delay on April 15, 2014, thereby contravening Regulation 15(iii) of Notification No. FEMA 120/ 2000-RB dated July 07, 2004. The Board of the applicant company decided to exit from the overseas JV due to losses and the commercial operations of the JV stopped operations in December 2012. The overseas entity was closed on March 19, 2013. The applicant disinvested from the overseas entity and at the time of disinvestment loan and interest accrued thereon were outstanding, resulting in a contravention of Regulation 16(1)(iv) of Notification No. FEMA 120/ 2000-RB dated July 07, 2004.

3. The following are the observed contraventions:

3.1 Whereas Regulation 15(ii) of FEMA 120/2004, states that an Indian Party, which has acquired foreign security in terms of the Regulations in Part- I, shall - repatriate to India, all dues receivable from the foreign entity, like dividend, royalty, technical fees etc., within 60 days of its falling due, or such further period as the Reserve Bank may permit.

3.2 Whereas Regulation 15(iii) of FEMA 120/2004, states that an Indian Party may submit to the Reserve Bank, through the designated Authorised Dealer, every year on or before a specified date, an Annual Performance Report (APR) in Part III of Form ODI, as prescribed by the Reserve Bank from time to time, in respect of each JV or WOS outside India, and other reports or documents as may be prescribed by the Reserve Bank from time to time;



3.2 Whereas Regulation 16(1)(iv) of FEMA 120/2004, states that an Indian Party may transfer, by way of sale to another Indian Party which complies with the provisions of Regulation 6, or to a person resident outside India, any share or security held by it in a JV or WOS outside India subject to among other conditions the Indian Party does not have any outstanding dues by way of dividend, technical know-how fees, royalty, consultancy, commission or other entitlements and / or export proceeds from the JV or WOS;

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2167/15.20.67/2019-20 dated October 29, 2019 for further submission in person and/or producing documents, if any, in support of the application. The applicant sought to forgo the option of personal hearing with the Compounding Authority vide e-mail dated October 31, 2019. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and as well as other documents and submissions made in this context by the applicant.

5. I have given my careful consideration to the documents on record and submissions made by the applicant. Accordingly, I hold that the applicant contravened the following Regulations of Notification No. FEMA120/2004-RB dated July 7, 2004:

(i) Regulation 15(ii)-The amount of contravention in INR, as declared by the applicant is ₹19,61,000/- approximately and the period of contravention is more than five years from the date of such remittance.

(ii) Regulation 15(iii)- The period of contravention as declared by the applicant is from June 30, 2012 and June 30, 2013 (due dates) respectively to April 15, 2014 (date of submission of APR to the AD bank).

(iii) Regulation 16(1)(iv)-The amount of contravention in INR, as declared by the applicant is ₹2,23,945/- approximately and the period of contravention is from March 19, 2013 (the date of winding up of the WOS) till September 19, 2019 (the date of regularisation).

6. It has been declared in the compounding application dated July 15, 2019, that the particulars given by the applicant in the application are true and correct to the best of their knowledge and belief. It has also been declared in the declaration furnished along 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 been informed of initiation of any such enquiry/investigation/adjudication proceedings against it thereafter. 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.

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. After considering the submissions made by the applicant and the entire facts and circumstances of the case, it stands to reason that payment of an amount of ₹1,46,388/- (Rupees One lakh Forty-six thousand Three hundred and Eighty-eight only) will meet the ends of justice in the circumstances of this case.

8. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contraventions committed by the applicant namely, Regulations 15(ii), 15(iii) and 16(1)(iv) of Notification No.FEMA.120/2004-RB, on payment of a sum of ₹1,46,388/- (Rupees One lakh Forty-six thousand Three hundred and Eighty-eight only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' 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 accordingly.

Dated this the 11th day of November, 2019

**Sd/-**

**(Meenakshi Ganju)**

**Deputy General Manager**