



In the

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

Present

**H. Thangzaman**  
**Chief General Manager**

Date: November 05, 2018  
C.A.074 /2018

In the matter of

**M/s W. Hunger Hydraulics India Private Limited**  
New Plot No. 1, Poly Park Sankrail, P.O. Dhulagari,  
Howrah-711302  
West Bengal  
(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 August 14, 2018 (received at Reserve Bank on August 16, 2018) 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 delay in submission of Form FC-GPR to the Reserve Bank after issue of shares to a person resident outside India beyond the stipulated 30 days in terms of Paragraph 9(1)(B) to 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 May 03, 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 under Companies Act, 1956, on September 18, 2006 and is in the business of manufacture of fluid-power equipment and other plastic products.

3. The applicant had received thirteen remittances from one foreign investor for subscription to equity shares under the Automatic Route and reported to Reserve Bank in form ARF along with documents prescribed therein, without any contravention in terms of paragraph 9(1)(A) of Schedule 1 to Notification No. FEMA 20/2000-RB.

4. The applicant allotted equity shares in the period 2007-14 within the stipulated period from receipt of foreign inward remittances, in terms of paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB.

5. The applicant allotted equity shares in the period 2007-14 of which delays in reporting on two occasions are being subjected to compounding as detailed below:

**Table: Allotment of shares and reporting of FCGPR**

S. No.	Inflow (INR)	Amount for which shares have been issued	Date of inflow	Date of allotment of shares	Date of reporting of allotment of shares to RBI	Delay beyond 30 days, if any (days)
1	50,00,000.00	50,00,000.00	06-Dec-12	11-Dec-12	25-Mar-13	74
1	2,00,00,000.00	2,00,00,000.00	18-Jun-14	20-Jun-14	19-Apr-16	639

In terms of paragraph 9(1)(B) Schedule 1 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 persons outside India. However, the applicant reported the allotments of shares (in form



FC-GPR) to the Reserve Bank of India, with a delay of 74 and 639 days, beyond the stipulated period of 30 days.

6. The applicant was given an opportunity for personal hearing, vide Reserve Bank's letter No.KOL.FED.FID.655/03.40.200/2018-19 dated October 29, 2018, for further submission in person and/or producing documents, if any, in support of the application. The applicant, represented by Ms. Subhra Chowdhury, appeared for personal hearing on November 5, 2018. The representative of the applicant admitted the contraventions as stated in para 5 of this Order. During the personal hearing, it was submitted that the company was not aware of the requirement for filing of FC-GPR. In view of this, the company requested to take a lenient view in the matter.

7. It has been declared in the compounding application dated August 14, 2018 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. The contraventions being sought for compounding have taken place before November 7, 2017 and hence the application for compounding is being considered as per provisions of erstwhile Notification No. FEMA 20/2000-RB dated May 03, 2000.

8. 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 paragraph 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB dated May 03, 2000. The contravention



relates to an amount of ₹ 2,50,00,000 and the period of delay, rounded off to the next month, are three months and 22 months.

9. In terms of section 13 of the FEMA any person contravening any provision of the act shall be liable for a penalty upto 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 ₹ 1,03,417.00 (Rupees One Lakh Three Thousand Four Hundred and Seventeen only) will meet the end of justice.

10. Accordingly, I compound the admitted contravention viz. Paragraph 9(1)(B) of Schedule 1 of Notification No. 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 ₹ 1,03,417.00 (Rupees One Lakh Three Thousand Four Hundred and Seventeen 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.

11. The application is disposed off accordingly.

Dated this Fifth day of November Two Thousand and Eighteen.

Sd/

(H. Thangzaman)  
Chief General Manager