



In the

**Reserve Bank of India**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Marg  
Mumbai - 400 001

Present

**Devinder Kumar**  
**Deputy General Manager**

Date: November 14, 2017  
CA NO: 4464/2017

In the matter of

**Niton Valve Industries Private Limited**  
**D-115, Ghatkopar Industrial Estate, LBS Marg, Ghatkopar (W), Mumbai-400 086**  
**(Applicant)**

In exercise of 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**

The applicant has filed a compounding application dated July 10, 2017 (received in the Reserve Bank of India on July 11, 2017) for compounding the 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) making of Overseas Direct Investment in WOS by way of Standby Letter of Credit (SBLC) without submitting Annual Performance Report (APR) in the prescribed format and (ii) non-submission of Annual Performance Reports (APRs) for the years 2011 to 2014 in the prescribed time limits. The above were in contravention of Regulations 6(2)(iv) and 15(iii) respectively of the Foreign Exchange Management



(Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120/2004-RB dated July 07, 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 follows: The applicant was incorporated as Niton Valve Industries Private Limited on August 14, 1985 under the Companies Act, 1956 (CIN NO: U27300MH1985PTC037156). The applicant is engaged in the business of industrial valves, fittings, castings, forgings, expansion joints and other engineering apparatus. In 2010, the applicant invested an amount of €10,000 in WOS in Italy under the name Valvinox, SRL. On March 12, 2013, the applicant provided a Standby Letter of Credit (SBLC) from its Authorised Dealer (AXIS Bank), for €50,000, under the automatic route, in favour of UBI Banca Popolare Commercio E Industria SPA, Italy in lieu of extending credit facilities to the aforementioned WOS. The SBLC was valid until March 11, 2015. However, the applicant did not submit the APRs in the prescribed form within the defined time limits before providing the SBLC. The delay in submission of APRs for the period prior to SBLC and for the subsequent periods is evident from the table below:

<b>Sr. No.</b>	<b>APR for the Period</b>	<b>Submitted on</b>
<b>1</b>	31.03.2011	28.07.2016
<b>2</b>	31.03.2012	06.12.2013
<b>3</b>	31.03.2013	28.07.2016
<b>4</b>	31.12.2013	28.07.2016
<b>5</b>	31.12.2014	28.07.2016

3. Thus, the applicant contravened the provisions of Regulations 6(2)(iv) and 15(iii) of Notification No. FEMA 120/2004-RB, which are reproduced below:

3.1 Regulation 6(2)(iv) (as amended from time to time): "The Indian Party has submitted its Annual Performance Report in respect of all its overseas investments in the format given in Part III of the Form ODI."

3.2 Regulation 15(iii) (as amended from time to time): An Indian Party shall 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 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. The APR, so required to be submitted, has to be based on the audited annual accounts of the JV / WOS for the preceding year, unless specifically exempted by the Reserve Bank.

4. The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO.CEFA.No./2113/15.20.67/2017-18 dated September 08, 2017 for further submission in person and /or producing documents, if any, in support of the application. The personal hearing was held on November 09, 2017 during which Shri S. S. Raman Iyer, Manager (Finance & Accounts), Shri Rizwan A. Lala, Manager (Finance & Accounts) and Shri Mohnish Wadhwa, Chartered Accountant represented the applicant. The representatives of the applicant, while admitting the contraventions for which compounding has been sought, submitted that the lapses were inadvertent and requested that a lenient view may be taken in the matter. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well as other documents and submissions made in this context by the applicant during the personal hearing and thereafter.

5. I have given my careful consideration of the documents on record and submission made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 6(2)(iv) and 15(iii) of FEMA 120/2004-RB. The amount and the period of contravention is as under:

(a) Regulation 6(2)(iv): The amount of contravention is ₹35,36,575/- and the period of contravention is more than three years.

(b) Regulation 15(iii): Delay in submission of APRs as mentioned in Para 2 above.

6. In terms of provisions of section 13 of FEMA, any person contravening any provision of the Act shall be liable to pay up to three times the sum involved in the contravention upon adjudication. However, after considering the submissions made by the applicant with regard to the contraventions and the entire relevant facts and circumstances of the case, I am persuaded to take a lenient view on the amount for which the contraventions are to be compounded and I consider that an amount of



₹1,22,988/- (Rupees One lakh twenty two thousand nine hundred eighty eight only) will meet the ends of justice.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, the admitted contravention committed by the applicant, viz., Regulation 6(2)(iv) and 15(iii) of Notification No FEMA 120/2004-RB on payment of a sum of ₹1,22,988/- (Rupees One lakh twenty two thousand nine hundred eighty eight only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5<sup>th</sup> Floor, Amar Building, Fort, Mumbai-400001 by a Demand Draft drawn in favour of "Reserve Bank of India" and payable at " Mumbai" within a period of 15 days from the date of the 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 shall apply.

The application is disposed of accordingly.

Dated this the fourteenth day of November, 2017.

Sd/-

**(Devinder Kumar)**  
**Deputy General Manager**