



In the  
**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
6, Sansad Marg  
New Delhi-110001

Present  
**Devika Gowrishankar**  
**Deputy General Manager**  
Date: November 28, 2019  
CA No. NDL 490/2019

In the matter of  
**C K Unicom LLP**  
P. No. 137, Sector 68, IMT, Greater Faridabad, Faridabad, Haryana 121002  
**(Applicant)**

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

#### **ORDER**

The applicant has filed the compounding application dated July 4, 2019 (received at Reserve Bank of India, New Delhi on July 15, 2019) and addendum dated November 21, 2019 for compounding of contravention of the provisions of the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA) and the regulations issued thereunder. The contravention sought to be compounded is of delay in reporting the receipt of remittance in Form Foreign Direct Investment –LLP (I), beyond the stipulated time period of 30 days, in contravention of Regulation 5(9) read with paragraph 6(i) of Schedule 9 of 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 3, 2000 as amended from time to time ((hereinafter referred to as FEMA 20/2000-RB).

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

(a) The applicant is a Limited Liability Partnership (LLP) (LLPIN – AAK-3902),



incorporated on August 24, 2017, with Mr. Unnikrishnan Mohandas Thazhath, Faridabad, Mr. Kai Chan, Honkong and Mr. Rohit Mehta, Faridabad as partners. The applicant is engaged in the business of manufacturing and trading of electronic goods, mobile phones, tablets, computer and their accessories and allied activities.

(b) The applicant had received foreign inward remittance of ₹12,97,144.00 as capital contribution from Mr. Chan Kai, Hong Kong on September 28, 2017 and reported the same in Form LLP(I) on February 13, 2019 through FIRMS portal, with a delay of 1 year, 3 months and 16 days beyond the prescribed period of 30 days in contravention of Regulation 5(9) read with paragraph 6(i) of Schedule 9 of FEMA 20/2000-RB, as then applicable. Whereas, in terms of Regulation 5(9) of FEMA 20/2000-RB, a person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India (other than an entity in Pakistan or Bangladesh), not being a registered Foreign Institutional Investor or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by the way of acquisition/transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9 of FEMA 20/2000-RB. Further, in terms of paragraph 6(i) of Schedule 9 of FEMA 20/2000-RB, reporting of foreign investment in LLPs and disinvestment/transfer of capital contribution or profit shares between a resident and a non-resident may be made in a manner as prescribed by Reserve Bank from time to time. And, in terms of paragraph 7 of Part IV (A) of Master Direction on Reporting under FEMA, 1999 dated January 1, 2016, a Limited Liability Partnership (LLP) receiving amount of consideration for capital contribution and acquisition of profit shares is required to submit a report in Form Foreign Direct Investment-LLP(I) through its Authorised Dealer Category –I bank, to the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the Limited Liability Partnership making the declaration is situated, within 30 days from the date of receipt of the amount of consideration.

(c) Thus, there is a contravention of Regulation 5(9) read with paragraph 6(i) of Schedule 9 of FEMA 20/2000-RB.

**3.** The applicant was given an opportunity for personal hearing for further submission in person and/ or by producing documents, if any, in support of the application.



Mr. Unnikrishnan Mohandas Thazhath and Mr. Rohit Mehta, both partners appeared for personal hearing on November 27, 2019 on behalf of the applicant. The representatives of the applicant admitted the contravention committed by the applicant for which compounding has been sought. During the personal hearing, they submitted that contravention was without any *malafide* or wilful intention but mainly due to incorrect professional advice that reporting requirements are not applicable for LLP under FEMA. They requested for a lenient view in the matter. The application for compounding is, therefore, being considered on the basis of averments made in the application as well as other documents and submissions made during the personal hearing.

4. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. Accordingly, I hold that the applicant has contravened the provisions of Regulation 5(9) read with paragraph 6(i) of Schedule 9 of FEMA 20/2000-RB. The amount of contravention is ₹12,97,144.00 (Rupees Twelve Lakh Ninety Seven Thousand One Hundred and Forty Four Only) and the period of contravention is 1 year, 3 months and 16 days.

5. It has been declared in the compounding application dated July 4, 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 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, thereafter. It has further been declared that the applicant has not filed any appeal under Section 17 or Section 19 of FEMA. Accordingly, the above contravention which is being compounded in this Order is 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. In terms of Section 13 of 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 I am persuaded to compound the contravention,



in line with the Guidance Note on Computation Matrix prescribed as part of Master Direction – Compounding of Contraventions, framed in accordance with the Foreign Exchange (Compounding Proceedings) Rules 2000. Accordingly, it stands to reason that payment of an amount of **₹13,325/- (Rupees Thirteen Thousand Three Hundred and Twenty Five only)** will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound the admitted contravention of Regulation 5(9) read with paragraph 6(i) of Schedule 9 of FEMA 20/2000-RB by the applicant based on the facts detailed above in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000, on payment of an amount of **₹13,325/- (Rupees Thirteen Thousand Three Hundred and Twenty Five only)** which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 6, Sansad Marg, New Delhi - 110001 by a demand draft drawn in favour of the “Reserve Bank of India” and payable at New Delhi 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 28th day of November 2019.

Sd/-  
**(Devika Gowrishankar)**  
**Deputy General Manager**