



In the

**RESERVE BANK OF INDIA**  
Foreign Exchange Department  
11th floor, Central Office Building  
Shahid Bhagat Singh Road  
Mumbai - 400 001

Present

**Ajay Kumar Misra**  
**Chief General Manager**

Date: May 16, 2019  
CA No 4895 / 2019

In the matter of

**Richard Olav AA**  
**C/o Pankaj Wadhwa**  
**Unit No. 302, 3<sup>rd</sup> Floor**  
**World Trade Tower, Barakhamba Lane**  
**Connaught Place, New Delhi - 110001**

**(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 February 10, 2019 (received in the Reserve Bank on February 20, 2019), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued thereunder. The compounding is sought for contravention of Section 42(1) of FEMA, 1999 which stipulates that *'Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was*



*responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly*'. The applicant was the Director of Unitech Wireless (Tamilnadu) Private Limited when the company contravened the provisions contained in Regulation 7(1)(c) read with Paragraph 9(1)(B) of Schedule 1 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 Notification No. FEMA 20/2000-RB), further read with Section 6(3)(b) of FEMA, 1999, related to delay in reporting of the allotment of shares by the company, beyond the stipulated time period.

2. The relevant facts, as per the compounding application, are as under: The applicant was the Director of Unitech Wireless (Tamilnadu) Private Limited (hereinafter referred to as 'company'), which was incorporated on August 10, 2007 under the Indian Companies Act, 1956. The CIN of the company is U45400DL2007PTC166910. The company is engaged in the business of wireless telecommunications services. The company was granted permission by GOI vide letter dated November 13, 2009 for foreign investment to the extent of 74% by Telenor Asia Pte Ltd.(TAPL), Singapore, a wholly-owned subsidiary of Telenor ASA, Norway. During the year 2009-10, the company received foreign investment from TAPL amounting to Rs.541.82 crore and allotted the shares to the foreign investor. Pursuant to a scheme of amalgamation sanctioned by an order of Hon'ble Delhi High Court dated September 27, 2010 the following eight (nos.) companies were amalgamated with the company:

- Unitech Wireless (North) Private limited
- Unitech Wireless (South) Private limited
- Unitech Wireless (Kolkata) Private limited
- Unitech Wireless (Delhi) Private limited
- Unitech Wireless (East) Private limited
- Unitech Wireless (Mumbai) Private limited



- Unitech Wireless (West) Private limited
- Unitech Long Distance Communications Services Private Limited

Pursuant to the amalgamation, the company issued 22,21,744 (nos.) shares of Rs. 10/- each (amounting to Rs.2,22,17,440/-), to TAPL on October 01, 2010. The company further issued 6,45,62,084 (nos.) bonus shares (amounting to Rs.64,56,20,840/-) on October 01, 2010 to TAPL. The allotment of these shares was finally reported in the desired form (Form FC-GPR) to RBI on June 21, 2014.

The delay in reporting of the allotment of shares by the company was in contravention of Regulation 7(1)(c) read with para 9(1)(B) of Schedule 1 of Notification No. FEMA 20/2000-RB further read with Section 6(3)(b) of FEMA, 1999. The company was advised of these contraventions committed vide letter ND. FED. FID. No.5056/06.04.117/2016-17 dated June 08, 2017. After the company submitted a compounding application in respect of the contraventions, it was compounded for the same vide Compounding Order dated August 14, 2018. The company had paid the compounding amount imposed on August 28, 2018.

3. Section 42(1) of FEMA, 1999 states that, "Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly".

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/6717/15.20.67/2018-19 dated May 14, 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 their e-mail dated May 14, 2019. The application is, therefore, being considered on the basis of the averments made in the compounding application and the documents submitted therein.



The applicant has declared in the compounding application that it was issued a Show Cause Notice (SCN) No. T-4/2-D/2012/SCN/SDE, dated April 30, 2012 by the Directorate of Enforcement (DoE). RBI vide letter FE.CO.CEFA./5099/15.20.67/2018-19 dated February 27, 2019 had sought comments from DoE as to whether its investigation pertained to the contraventions sought to be compounded by the applicant and whether it had any objection to compounding by RBI. DoE vide its letter F.No.T-4/2-D/2012 dated May 06, 2019 has stated that they had no case pending against the applicant presently. Accordingly, this Compounding Order is being issued after considering the comments offered by DoE and is without prejudice to any action which may be taken by any other authority under the extant laws.

5. I have given my careful consideration to the documents on record. It was observed that the applicant has contravened the provisions of Section 42(1) of FEMA, 1999. The amount of contravention (committed by the company where the applicant was a Director) is Rs. 66,78,38,280/- and the period of contravention is 3 years 8 months approximately.

6. 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 Rs. 37,667/- (Rupees thirty seven thousand six hundred and sixty seven only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Section 42(1) of FEMA, 1999, on payment of a sum of Rs. 37,667/- (Rupees thirty seven thousand six hundred and sixty seven 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 16th day of May, 2019

**Sd/-**  
**Ajay Kumar Misra**  
**(Chief General Manager)**