



24th May, 2018

Notice under sub-section (2) of Section 6 of the Competition Act, 2002 filed by Macritchie Investment Pte. Ltd.

CORAM:

Mr. Devender Kumar Sikri
Chairperson

Mr. Sudhir Mital
Member

Mr. U. C. Nahta
Member

Mr. Justice G. P. Mittal
Member

Legal representatives: M/s Shardul Amarchand Mangaldas & Co.

Order under sub-section (1) of Section 31 of the Competition Act, 2002

1. On 11th May, 2018, the Competition Commission of India (**Commission**) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (**Act**) given by Macritchie Investment Pte. Ltd. (**MR IPL** or the **Acquirer**). Approval of the Commission has been sought for MR IPL's acquisition of up to 21.3% of the issued and paid-up capital of UST Holdings Limited (**UST** or **Target**), on a fully diluted basis and matters incidental thereto.
2. The notice was given pursuant to the execution of a Share Subscription Agreement (**SSA**) by and between MR IPL and UST on 9th May, 2018. Additionally, a Shareholders Agreement (**SHA**) was also executed between MR IPL, UST, the existing investor Group of UST *i.e.* Tricase Investment Holding Inc. and Advantec Holdings SA, and the Sajan Group comprising of Pillai Family Limited Partnership and Mr. Sajan Pillai. Under SHA, MR IPL would enjoy right, proportional to its shareholding, to nominate directors on the board of UST and veto rights in respect of certain matters



including commencement of new line of business, approval of annual business plan and change in key managerial positions of CEO, CFO and COO.

3. In terms of Regulation 14 of The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (**Combination Regulations**), *vide* letter dated 14th May, 2018, MRIPL was required to provide certain information/document(s) by 17th May, 2018. Accordingly, MRIPL filed its response on 17th May, 2018.
4. MRIPL is an investment holding company and does not engage in any business operation. It is a wholly-owned subsidiary of Seletar Investments Pte Ltd. (**Seletar**). Seletar is a wholly-owned subsidiary of Temasek Capital (Private) Ltd., which in-turn is a wholly-owned subsidiary of Temasek Holdings (Private) Ltd. (**Temasek**), which is an investment company based in Singapore. The portfolio companies of Temasek Group cover a broad spectrum of industries: financial services; telecommunications, media and technology; transportation and industrials consumer and real estate; life sciences and agribusiness; as well as energy and resources.
5. UST, along with its subsidiaries, is engaged in providing Information Technology (IT) services - software development and support services worldwide. In India, UST is present through its subsidiaries.
6. As per the information provided in the notice, UST would utilize a part of the total consideration to buyback certain securities issued pursuant to exercise of stock options held by certain employees and shareholders of UST. From MRIPL's perspective, the proposed combination is a financial investment, which is taking place in its ordinary course of business.
7. It has been contended in the notice that there is no horizontal overlap between MRIPL and UST. However, MRIPL and Temasek Group is found to have made investments in certain Indian companies that are engaged in providing solutions for placement consultancy, platform for online auction of used cars and secondary sale of automobile components, data centre services and cyber security service. Although these fall within the broad ambit of IT services, UST does not offer any of them. It is also observed that



COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2018/05/567)



the turnover of UST in India is relatively insignificant to raise any competition concern given that IT sector, in general, exhibits a high degree of innovation and dynamism.

8. As regards vertical overlap, pursuant to the query raised by the Commission, MRIPL has confirmed that “there is no vertical relationship between the portfolio companies of Temasek Group, which generates revenue from India and any of the Indian subsidiaries of UST. Thus, it has been found that the business of the parties to the combination do not exhibit any vertical overlap.
9. Considering the facts on record, details provided in the notice given under Section 6(2) of the Act and assessment on the basis of factors specified in Section 20(4) of the Act, the Commission is of the opinion that the Proposed Combination is not likely to have an appreciable adverse effect on competition in India and therefore, the same is hereby approved in terms of Section 31(1) of the Act.
10. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
11. The information provided by the Acquirer is confidential at this stage, in terms of and subject to the provisions of Section 57 of the Act.
12. The Secretary is directed to communicate to the Acquirer accordingly.