



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
Secretariat Road
Saifabad, Hyderabad 500 004

Present

R. Subramanian
Regional Director

Date: October 18, 2017
C.A. HYD 221

In the matter of

M/s. Ventureast Tenet Fund II
(Represented by Ventureast Trustee Company Pvt Ltd)

Plot No.40 &41, Ventureast Plaza
Behind ICICI Bank
Nanakramguda
Gachibowli Financial District
Hyderabad-500032
Telangana

(Applicant)

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

Order

The applicant has filed the compounding application dated June 15, 2017 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 are (i) delay in reporting receipt of foreign inward remittances; (ii) delay in submission of Form FC-GPR to the Reserve Bank after issue of shares towards subscription to equity and (iii) neither the equity instrument were issued nor amount refunded to the person resident outside India in



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terms of Paragraph 9 (1) (A) and Paragraph 9 (1) (B) and Paragraph 8 respectively of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 of 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 3rd May 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:

- a) The applicant, represented by Ventureast Trustee Company Private Limited, is constituted as unit scheme of a Trust, registered with SEBI as a Venture Capital Fund on 27.12.2006, targeting to invest in undertakings primarily engaged in providing technology solutions for addressing the needs of the Digital Divide, Small & Medium Enterprises Sector, the IT & Communications Technology sectors and environment oriented technology sectors.
- b) It has obtained FIPB approval, vide order No. FC II: 140(2007)/160(2007) dated July 23, 2007 for investment of Rs. 15 Cr from its foreign investor, Google Holdings Pte. Ltd., Singapore in one or more tranches over a 5 year period. Pursuant to the FIPB order, Google Holdings Pte Ltd has made total remittances of Rs. 11,96,74,475/- to the Fund from October 19, 2007 to June 19, 2012.
- c) Further, the Fund obtained FIPB approval vide order No. FC II: 140(2007)/160(2007) - Amend dated April 07, 2014 for extension of time period up to December 28, 2017 for investing remaining amount of Rs. 3,03,25,526/- from the total approved foreign equity participation of Rs. 15 Cr constituting up to 30% of the total units of Ventureast Tenet Fund II.

3. The applicant reported inward remittances as indicated below:-



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| Sl. No. | Name of Remitter | Total Amount (INR) | Date of Receipt | Date of Reporting |
|---------|-------------------------|---------------------|-----------------|-------------------|
| 1 | Google Holdings Pte Ltd | 50754613 | 19.10.2007 | 09.08.2010 |
| 2 | Google Holdings Pte Ltd | 14821238 | 20.04.2009 | 09.08.2010 |
| 3 | Google Holdings Pte Ltd | 9292653 | 20.01.2010 | 09.08.2010 |
| 4 | Google Holdings Pte Ltd | 2921721 | 10.06.2010 | 09.08.2010 |
| 5 | Google Holdings Pte Ltd | 12091907 | 04.10.2010 | 10.11.2010 |
| 6 | Google Holdings Pte Ltd | 24332307 | 01.02.2011 | 11.04.2011 |
| 7 | Google Holdings Pte Ltd | 2566031 | 11.11.2011 | 29.03.2012 |
| 8 | Google Holdings Pte Ltd | 2894005 | 19.06.2012 | 09.07.2012 |
| 9 | Google Holdings Pte Ltd | 12097050 | 04.06.2014 | 10.07.2014 |
| | Total | 13,17,71,525 | | |

The applicant received remittances from overseas investor and reported remittances amounting to Rs.13,17,71,525/- to the Regional Office of Reserve Bank of India during the period from 19.10.2007 to 04.06.2014 as indicated above out of which remittances amounting to Rs.12,88,77,520/- were reported with delays ranging from 6 days to 2 years 8 months 21 days approximately



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beyond the prescribed period of 30 days. Whereas in terms of Paragraph 9 (1)

(A) of

Schedule 1 to Notification No. FEMA 20/2000-RB, an Indian company issuing shares or convertible debentures in accordance with these Regulations should report to the Reserve Bank of India as per the prescribed procedure not later than 30 days from the date of receipt of the amount of consideration.

d) The company allotted units and filed form FC-GPRs as indicated below:

| Sl.No | Name of Investor | Date of allotment of units | Number of units allotted | Amount for which units allotted (INR) | Date of reporting |
|-------|-------------------------|----------------------------|--------------------------|---------------------------------------|-------------------|
| 1 | Google Holdings Pte Ltd | 19.10.2007 | 150000 | 50700000 | 11.10.2010 |
| 2 | Google Holdings Pte Ltd | 27.04.2009 | 150000 | 14850000 | 11.10.2010 |
| 3 | Google Holdings Pte Ltd | 26.03.2010 | 150000 | 9300000 | 11.10.2010 |
| 4 | Google Holdings Pte Ltd | 28.06.2010 | 150000 | 2850000 | 11.10.2010 |
| 5 | Google Holdings Pte Ltd | 01.12.2010 | 150000 | 12150000 | 30.12.2010 |
| 6 | Google Holdings Pte Ltd | 07.03.2011 | 150000 | 24300000 | 12.04.2011 |
| 7 | Google Holdings Pte Ltd | 19.03.2012 | 150000 | 2550000 | 09.05.2012 |
| 8 | Google Holdings Pte Ltd | 25.09.2012 | 150000 | 2850000 | 25.10.2012 |
| 9 | Google Holdings Pte Ltd | 15.10.2012 | 150000 | 124470 | 19.01.2013 |
| 10 | Google Holdings Pte Ltd | 21.06.2014 | 150000 | 12097050 | 21.07.2014 |
| | Total | | | 13,17,71,520 | |



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The applicant filed form FCGPRs for issue of partly paid up units amounting to Rs.13,17,71,520/- out of which units amounting to Rs. 10,46,74,470/-as

indicated above were reported with delays ranging from 6 days to 2 years 10 months 23 days approximately beyond the stipulated period of 30 days. Whereas in terms of Paragraph 9(1) (B) of 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 FCGPR along with documents prescribed therein within 30 days from the date of issue of shares to person resident outside India.

e. The company has delayed in allotment of partly paid up units beyond the stipulated period of 180 days in respect of remittances aggregating to Rs. 2,25,370/- and the delay ranges from 4 months 14 days to 1 year 4 months 27 days approximately .

| Sl. No. | Name of Remitter | Total Amount (INR) | Date of Receipt | Balance share application money (INR) | Date of allotment (for balance share application money) |
|---------|-------------------------|--------------------|-----------------|---------------------------------------|---|
| 1 | Google Holdings Pte Ltd | 50754613 | 19.10.2007 | 54613 | 27.04.2009 |
| 2 | Google Holdings Pte Ltd | 14821237.50 | 20.04.2009 | 25850 | 26.03.2010 |
| 3 | Google Holdings Pte Ltd | 24332307.80 | 01.02.2011 | 64438 | 19.03.2012 |
| 4 | Google Holdings Pte Ltd | 2566031.40 | 11.11.2011 | 80469 | 25.09.2012 |
| | Total | | | 2,25,370 | |



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Whereas in terms of Paragraph 8 of Schedule 1 to Notification No.FEMA 20/2000-RB, if the shares are not issued within 180 days from the date of receipt of the inward remittance, the amount of consideration so received shall be refunded to the person concerned, provided the Reserve Bank may on an application made to it and for sufficient reasons permit to refund the amount of consideration received towards issue of security, if such amount is outstanding beyond a period of 180 days from the date of receipt. The amendment in Paragraph 8 of Schedule 1 to Notification No. FEMA 20/20000-RB was introduced by issue of Foreign Exchange Management (Transfer or Issue of Security by a Person outside India) (Third Amendment Regulation, 2007 notified, vide Notification No. FEMA 170/2007-RB dated 13th November, 2007 in the official Gazette of the Govt. of India.

3. (a) The applicant was given an opportunity for personal hearing vide Reserve Bank's letter No. HY.FE.FID/578/14.66.003/2017-18 dated September 25, 2017 for further submission in person and/or producing documents, if any, in support of the application.

(b) The applicant appeared for personal hearing on October 09, 2017 during which Shri Vishnu Kamalapuri, Associate Vice President represented the applicant. The authorized representative of the applicant admitted the contraventions for which the compounding has been sought. During the personal hearing it was submitted that the delay was not wilful or with a malafide intention and was on account of lack of clarity on the on the applicability of filing requirements to the units issued by the Fund. In view of the foregoing, the representative of the applicant requested to take



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a lenient view in disposal of the application. The application for compounding is, therefore, being considered on the basis of the averments made in the application as well the submissions made in this context by the applicant during the personal hearing.

4. I have given my careful consideration to the documents on record. Accordingly, I hold that the applicant has contravened the following FEMA provisions issued in terms of:-

(a) Paragraph 9 (1) (A) of Schedule 1 to Notification No. FEMA 20/2000-RB for delay in reporting the receipt of consideration towards issue of units amounting to Rs.12,88,77,520/- and the delay ranges from 6 days to 2 years 08 months 21 days approximately.

(b) Paragraph 9 (1) (B) of Schedule 1 to Notification No. 20/2000-RB for delay in submission of Form FC-GPR to Reserve Bank after issue of units to persons resident outside India and the contravention relates to an amount of Rs. 10,46,74,470/- and the period of contravention ranges from 6 days to 2 years 10 months 23 days approximately.

(c) Paragraph 8 of Schedule 1 to Notification No.20/2000-RB for delay in allotment of units and the contravention relates to an amount of Rs.2,25,370/- and the delay ranges from 4 months 14 days to 1 year 4 months 27 days approximately.

5. 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. However, taking into account the relevant facts and circumstances of the case as stated in the foregoing paragraphs, I am persuaded to take a lenient view on the amount for which the contravention is to be compounded



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and I consider that an amount of Rs. 4,97,303/- (Rupees Four Lakhs Ninety Seven Thousand Three Hundred Three Only) will meet the ends of justice.

6. Accordingly, I compound the admitted contraventions, namely, the contraventions of Paragraph 9 (1) (A), Paragraph 9 (1) (B) and Paragraph 8 of Schedule 1 to Notification No. FEMA-20/2000-RB by the applicant on the facts discussed above in

terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 on payment of an amount of Rs. 4,97,303/- (Rupees Four Lakhs Ninety Seven Thousand Three Hundred Three Only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 1st Floor, Saifabad, Hyderabad - 500004 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at Hyderabad 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 18th day of October 2017

Sd/-

(R. Subramanian)
Regional Director