



COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2018/01/548)

09.02.2018

**Notice under Section 6 (2) of the Competition Act, 2002 given by
Wilmar Sugar Holdings Pte. Ltd. (“Acquirer”)**

CORAM:

Mr. Devendra Kumar Sikri
Chairperson

Mr. Sudhir Mital
Member

Augustine Peter
Member

Mr. U. C. Nahta
Member

Mr. G. P. Mittal
Member

Legal Representatives of the parties to the combination: Trilegal

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

1. On 17.01.2018, the Competition Commission of India (“**Commission**”) received a notice given by Wilmar Sugar Holdings Pte. Ltd. (“**WSH**”/”**Acquirer**”) under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”). The notice was filed pursuant to execution of Subscription Agreement dated 27.07.2017 between WSH and Shree Renuka Sugars Limited (“**SRS**”) (hereinafter, WSH and SRS are collectively referred to as “**Parties**”).
2. 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* letters dated 25.01.2018 and 07.02.2018, the



Acquirer was required to furnish certain information; the same was submitted on 29.01.2018 and 08.02.2018.

3. The Commission noted that WSH had earlier filed a notice on 16.10.2017 with regard to its acquisition of additional equity stake in SRS. The Commission, in its ordinary meeting held on 27.11.2017, observed that the notice filed by WSH was incomplete and that it had failed to provide requisite information as required vide letter dated 10.11.2017, issued under Regulation 14 of the Combination Regulations. In view of the foregoing, the Commission decided that the notice filed by WSH is not in conformity with the provisions of the Combination Regulations and therefore, not valid in terms of Regulation 14 of the Combination Regulations. The Commission also directed the Acquirer to file a fresh notice for the proposed combination, at the earliest, without paying any additional fee. The decision of the Commission was communicated to WSH vide letter dated 01.12.2017. Pursuant to the said direction of the Commission, WSH filed the present notice.
4. As per the information given in the notice, each of WSH and the original promoters of SRS, i.e. the Murkumbi Group (“**Original Promoters**”) currently holds approximately 27 per cent of the shareholding of SRS. WSH, the Original Promoters, SRS Investments Pte. Ltd. and SRS entered into a joint venture agreement dated 20.02.2014 (“**JVA**”) with respect to the mutual rights and obligations of WSH and the Original Promoters as shareholders of SRS.
5. Under the terms of Subscription Agreement dated 27.07.2017, WSH proposes to subscribe to compulsorily convertible preference shares (“**CCPS**”) to be issued under a preferential allotment by SRS, which shall be converted by WSH into equity shares of SRS. It has also been mentioned that post the subscription of CCPS, WSH will effectively hold approximately 38 per cent of shareholding of SRS. Consequently, shareholding of the Original Promoters will reduce to approximately 13 per cent. Since, WSH’s equity shareholding and voting rights in SRS would increase by more than 5 per cent upon such conversion, therefore, pursuant to Clause 5.4(ii) of the Subscription Agreement and Regulation 3(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, WSH would make an open offer to the public



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shareholders of SRS to acquire up to 26 per cent of the post-offer share capital of SRS. Upon the completion of the open offer, WSH's shareholding in SRS can rise by a maximum of 26 per cent, depending upon the number of shares tendered in the open offer.

6. It has been submitted that the funds to be infused by WSH are proposed to be utilized by SRS towards the ongoing debt restructuring with its lenders. Pursuant to the said restructuring, the existing JVA between WSH and the Original Promoters is proposed to be terminated and certain changes in the composition of the board of directors of SRS will be effected. Further, due to increased voting rights, termination of JVA and subsequent reconstitution of the board of directors, WSH will acquire sole control over SRS. All these steps are stated to be inter-connected and accordingly, a single notice has been filed in terms of Regulation 9(4) of the Combination Regulations.
7. SRS, a company incorporated under the laws of India, is engaged in the business of refining raw sugar; production, sale, distribution and branding of sugar and ethanol derived from sugarcane; and generation, distribution, sale and trading of electricity/power.
8. WSH, a company incorporated under the laws of Singapore, is a wholly owned subsidiary of Wilmar International Limited (the parent company of the Wilmar International Limited group of companies (the "**Wilmar Group**"). As per the information given in the notice, it is the main holding company for the Wilmar Group's sugar and others business, globally. The subsidiaries of WSH primarily operate the sugar, power and ethanol businesses. As stated in the notice, WSH's only investment in India is in SRS.
9. It is noted that WSH is already a shareholder in SRS having joint control over its operations along with its Original Promoters. It is also noted from the information given in the notice that, in India, Wilmar Group is active in the business of trade of raw sugar and refined sugar, whereas SRS is active in the business of manufacture and distribution of sugar, ethanol and power generation. Therefore, in India, the Parties have overlapping businesses in the business of sugar only. In relation to the business of sugar



in India, it is noted that Wilmar Group has very limited presence in the market through small volume of export/import of sugar. Moreover, the combined market share of the Parties is insignificant to raise any competition concerns. In view of the foregoing and considering the presence of a large number of organised and unorganised players in sugar industry in India, the proposed combination is not likely to give rise to any competition concern in India.

10. Considering the facts on record, details provided in the notice given under sub-section (2) of Section 6 of the Act and an assessment of the Proposed Combination on the basis of factors stated 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. Therefore, the Commission hereby approves the Proposed Combination under sub-section (1) of Section 31 of the Act.
11. This order shall stand revoked if, at any time, information provided by the Parties is found to be incorrect.
12. The information provided by the Parties is confidential at this stage, in terms of, and subject to provisions of Section 57 of the Act.
13. The Secretary is directed to communicate to the Parties accordingly.