

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABADBENCH - II

CP (CAA) No.12/230/HDB/2024

in

CA (CAA) No.4/230/HDB/2024

[Under Sections 230 to 232 r/w the Companies Act, 2013]

In the matter of Scheme of Amalgamation of

M/s.Soubhagya Confectionery Private Limited
(Transferor Company)

with

M/s. Lotus Chocolate Company Limited
(Transferee Company)

And

Their Respective Shareholders and Creditors

M/s. Soubhagya Confectionery Private Limited
Having registered office at:
H No.160/A, S.V. Co-Op Industrial Estate, I.D.A,
Bollaram, Telangana – 502325, India.
Represented by its Authorised Representative,
Mr.Subodhakanta Sahoo.

...the First Petitioner Company/Transferor Company

M/s: Lotus Chocolate Company Limited
Having registered office at:
Office-8-2-596, 1st Floor, 1B, Sumedha Estates,
Avenue-4 IVRCL Towers, Street No.1, Road.10,
Banjara Hills, Hyderabad – 500 034, Telangana, India.
Represented by its Company Secretary, Mr. Utsav Saini.

...the Second Petitioner Company/Transferee Company

Date of order:08.08.2024



CORAM:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Sri Sanjay Puri, Hon'ble Member (Technical)

Counsel/Parties present:

For the Petitioner : Mr.V.B. Raju, Counsel
For Regional Director : Mr.Harshavardhan Reddy, Assistant Director
For Official Liquidator : Mr.Vasantrao Meshram, Assistant OL

[PER: BENCH]

ORDER

1. This is a Joint Petition filed by the Transferor Company and Transferee Company, under Section 232 r/w Section 230 and other applicable provisions of the Companies Act, 2013 praying for the sanction of the Scheme of Amalgamation (“**Scheme**”) of M/s. Soubhagya Confectionery Private Limited (“**Transferor Company**”) with M/s. Lotus Chocolate Company Limited (“**Transferee Company**”), their respective shareholders and creditors in terms of the Scheme of Amalgamation (“**Scheme**”).
2. The Registered Offices of the Transferor Company and the Transferee Company are situated in the State of Telangana.
3. Briefly, the facts are as follows:

I. First Petitioner Company/Transferor Company

- i. M/s.Soubhagya Confectionery Private Limited (“**Transferor Company**”), was incorporated on 08.04.1985 with CIN: U15419TG1994PTC005439.



- ii. The main objects of the First Petitioner/Transferor Company are as follows:
- a. To carry on the business of manufacture of and dealing in as whole sellers or retailers of all types of baked, extruded foods and confectionery productions, chocolates, cocoa products, biscuits, chewing gum products, aerated and mineral waters, fruit juices and other drinks, eatables, snacks, vinegar, glucose, wines, malt, beers, yeast, mustard, pickles, sauces, fruit products and canning and bottling and all other food products.
 - b. To carry on the business of Hotels, Restaurants, Licensed bars, preparation or purchasing and selling of all kinds of food and drinks.
 - c. To carry on trade or business of cultivating, growing, producing or otherwise generally dealing in any agricultural, horticultural produce like vegetable, fruits and nuts, farming and dairy.
 - d. To carry on business to breed, raise, buy, sell and generally deal in all kinds of dairy, poultry products and animal feeds.
 - e. To act as stockists, manufacturers, representatives, distributors, agents and brokers for sellers, buyers, exporters and importers for the materials, machinery, equipment required for carrying out the above objects.
- iii. **Present Business of 1st Petitioner Company:**
At present, 1st Petitioner/Transferor Company is engaged in the business of bulk and contract manufacturing of confectionary products and derivatives for various consumer brands and



manufacturing of chocolates and cocoa products for sale to bakeries and corporates.

(Copy of the Memorandum and Articles of Association of the Transferor Company is filed at Annexure–A1 at page Nos. 23-38 of the Petition).

- iv. The authorized, issued, subscribed and paid-up share capital of the First Petitioner/Transferor Company as on 31stJanuary, 2024 is as follows:

Particulars	Amount (In Rs.)
Authorized Share Capital	
30,00,000 equity shares, of Rs.10/- each.	3,00,00,000
TOTAL	3,00,00,000
Issued, Subscribed and Paid-up Share Capital	
14,80,000 equity shares, of Rs.10/- each fully paid up	1,48,00,000
TOTAL	1,48,00,000

There is no change in share capital of the 1st Petitioner from 31.01.2024 till the date of this Petition.

(Copy of the audited financial statements as at 31st March, 2023 and limited reviewed financial results as on December 31st, 2023 of the Transferor Company are filed at Annexure-2A and Annexure-2B at page Nos.39-74 of the Petition).

II. Second Petitioner Company/Transferee Company

- i. M/s.Lotus Chocolate Company Limited (“Transferee Company”) was incorporated on 03.10.1988 with CIN: L15200TG1988PLC 009111.
- ii. The main objects of the Second Petitioner/Transferee Company are as follows:



- a. To manufacture, buy, sell, import and export Chocolates of all kinds, Chocolate Products & Chocolate Confectionery, derivatives of Cocoa and Beverages of all kinds, Milk based products, Toned milk, Skimmed milk, Condensed milk, Milk powder, Sugar based products, Toffee, Candy, Modified Toffee, Sugarless confectionery, Gum Products, Wheat flour and Rice flour based products, biscuits, Wafers, Cookies, Pizzas, Pies and all kinds of Pasta Products.
- b. To import, export, purchase or sell and deal in Machinery, Plant and Equipment, Spares and accessories used in the manufacture of all products, of the company including processing, wrapping, packing, quality testing, handling, transportation, display & dispensing equipment.
- c. To import, export, buy, sell and transfer technology, technical knowhow, expertise for manufacture of all products of the company, design, construct and install plant and machinery, research and develop, test and certify to conform to national and international regulations and standards.
- d. To import, export, buy, sell & deal in all raw-materials, wrapping and packing materials, ingredients, additives, preservatives, required to produce all products of the company.
- e. To acquire, build, lease, buy, sell, assign, transfer, own, establish, construct buildings of, all kinds for process, utilities, storage, office or any other description which may be incidental to carrying on the business of the company.



f. To be importers, exporters and dealers in jute, jute waste, burlap and hessian, waste papers, paper cuttings, gunny cuttings, gunny bags, cotton waste, condiment, condiment powder, handicrafts and other non-traditional items and to facilitate company's business in any manner.

iii. **Present Business of 2ndPetitioner Company:**

At present, 2ndPetitioner/Transferee Company is engaged in the business of manufacturing, trade, sale, import and export of ice cream covering, cocoa derivatives and chocolate products, both pure chocolates as well as compound variants.

(Copy of the Memorandum and Articles of Association of the Transferee Company is filed at Annexure–A3 at page Nos. 75-175 of the Petition).

iv. The authorized, issued, subscribed and paid-up share capital of the 2ndPetitioner/Transferee Company as on 31st January, 2024 is as follows:

Particulars	Amount (In Rs.)
Authorized Share Capital	
1,40,00,000 equity shares, of Rs.10/- each.	14,00,00,000
5,87,93,200 preference shares of Rs.10 each.	58,79,32,000
TOTAL	72,79,32,000
Issued, Subscribed and Paid-up Share Capital	
1,28,41,049 equity shares, of Rs.10/- each fully paid up	12,84,10,490
5,07,93,200 Redeemable Preference Shares of Rs.10/- each	50,79,32,000
TOTAL	63,63,42,490



There is no change in share capital of the 2nd Petitioner from 31.01.2024 till the date of this Petition.

(Copy of the audited financial statements as at 31st March, 2023 and limited reviewed un-audited financial results as at December 31st, 2023 as filed by it with BSE Limited of the Transferee Company are filed at Annexure-4A and Annexure-4B at page Nos.176-221 of the Petition).

4. **Rationale for the Proposed Scheme of Amalgamation:**

“SCPL is a wholly owned subsidiary of LCCL. Both LCCL and SCPL are in similar lines of business. It is proposed to amalgamate SCPL with LCCL to consolidate the business of both companies within a single entity with a view to achieve operational synergies and efficiency in administrative functions. The Scheme will result in cost savings through operational synergies, pooling of resources, legal entity rationalisation and reduction of administrative responsibilities, and legal & regulatory compliances.

The Scheme is in the interest of SCPL, LCCL and their respective stakeholders.”

5. **Board Resolution:**

The Board of Directors of the Petitioner Companies vide their resolution dated 02.01.2024, approved the Scheme of Amalgamation (“Scheme”) of M/s.Soubhagya Confectionery Private Limited (“Transferor Company”) with M/s.Lotus Chocolate Company Limited (“Transferee Company”), their respective shareholders and creditors. The appointed date is 25.05.2023.



(Copies of the Board Resolutions of the Transferor Company and Transferee Company, approving the Scheme of Amalgamation (Scheme) are filed at Annexure-5 and Annexure-6 at page Nos. 222 to 227 of the Petition).

6. The Salient features of the proposed Scheme of Amalgamation are detailed in page Nos.8 to 14 of the Petition.
7. The instant Company Application is filed in pursuance of the Order dated 03.04.2024 passed in CA(CAA)No.4/230/HDB/2024, in which dispensed with the convening the meetings of the Equity Shareholders and Unsecured Creditors of the Petitioner Companies and the meetings of the Preference Shareholders and Secured Creditors of the 2nd Petitioner.

(Copy of the Order dated is 03.04.2024 is filed at Annexure-8 at page Nos.239-252, to the Petition).

8. As per the directions of this Tribunal vide order dated 19.04.2024, the Petitioner Companies issued notices to the Statutory Authorities.
9. Notices were served individually to all the concerned regulatory authorities i.e., Regional Director (SER), Registrar of Companies (RoC), Official Liquidator, Hyderabad, Income Tax Authorities for intimating the Scheme of Amalgamation.
10. The Regional Director (South Eastern Region), Ministry of Corporate Affairs, Hyderabad has filed its Report on 31.07.2024 and Reply Affidavit filed on 01.08.2024.
11. In response to the observations made by the Regional Director's Report filed on 31.07.2024, the Petitioner Companies have given necessary undertakings and clarifications through their Reply



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Affidavit which was filed on 01.08.2024. The observations made by the Regional Director and the clarifications and undertakings given by the Petitioner Companies are summarized in the table below:

Page & Para Nos.	Regional Director's Report filed on 31.07.2024 / observations	Reply Affidavit filed on 01.08.2024 by the Petitioner Companies
Page 2 Para 3	This Directorate has received letter No. ROC/HYD/Amal/-005439/230-232/2023-24/650 dated 24.06.2024 from the Registrar of Companies, Telangana, Hyderabad pointing out certain observations as under-	
Page 2 Para 3 (a)	The present petition is filed for merger of wholly owned subsidiary into its Parent Company under Section 230-232 of the Act and both the Transferor and Transferee Companies are registered with RoC, Hyderabad.	That those are material facts and hence no reply is required to the same.
Page 2 Para 3 (b)	NCLT vide its order dated 03.04.2024 has dispensed with meeting of shareholders secured and unsecured creditors of both the Transferor and Transferee Companies.	That those are material facts and hence no reply is required to the same.
Page 2 Para 3 (c)	As per Clause No.1 of the scheme, the appointed date is 25.05.2023. The Petitioner Companies may be directed to explain the significance/ reasons for choosing an odd date as Appointed Date.	The Appointed date is 25.05.2023 and on the said date the Transferor Company become a wholly owned subsidiary of the Transferee Company and hence the Board of Directors of both the Transferor Company and Transferee Company have approved the said date as the Appointed Date.
Page 2 Para 3 (d)	As on the date, both the Transferor and Transferee Companies have filed their Balance Sheets as at 31.03.2023.	That those are material facts and hence no reply is required to the same.



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Page & Para Nos.	Regional Director's Report filed on 31.07.2024 / observations	Reply Affidavit filed on 01.08.2024 by the Petitioner Companies
Page 2 Para 3 (e)	Clause 12 of the Scheme provides that there is no change in the share capital of Transferee Company and the creditors and shareholders of the Transferee Company and are not affected by the implementation of the Scheme.	That those are material facts and hence no reply is required to the same.
Page 2 Para 3 (f)	The Directorate may request the Tribunal to direct the petitioner companies to preserve its books of Accounts and papers and records and shall not be disposed off without the prior permission of the Central Government in terms of the provisions of section 239 of the Companies Act, 2013.	The Petitioner Companies undertake to preserve its books of account and papers and records and shall not be disposed of without the prior permission of the Central Government under Section 239 of the Companies Act, 2013.
Page 3 Para 3 (g)	The Directorate may also request the Tribunal to direct the petitioner companies to ensure statutory compliance of all applicable laws and on sanctioning of the present scheme, the applicant company shall not be absolved for any of its statutory liabilities in any manner.	To ensure the statutory compliance of all the applicable laws for the sanctioning of the present Scheme and also the petitioner companies shall not be absolved of any of its statutory liability in any manner.
Page 3 Para 3 (h)	The Directorate may also request the Tribunal to direct the petitioner companies involved in the Scheme to comply with Rule 17(2) of the Companies (Compromises Arrangements and Amalgamation) Rules, 2016 with respect to filing of order for confirmation of Scheme to be filed in e-form No.INC-28 with the O/o.RoC, by the Petitioner Company.	The Petitioner Companies will comply with the Rule 17(2) of the Companies (Compromises Arrangements and Amalgamation) Rules, 2013 and undertakes to file the necessary Form INC-28 with the concerned Registrar of Companies upon sanctioning of the Scheme of Amalgamation by this Tribunal.



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Page & Para Nos.	Regional Director's Report filed on 31.07.2024 / observations	Reply Affidavit filed on 01.08.2024 by the Petitioner Companies
Page 3 Para 4	The Directorate has received OL Report No.24 of 2024 dated 31.05.2024 from the Official Liquidator, Hyderabad by pointing out certain observations vide para 22(a) to (g) of its report. Tribunal may be pleased to direct the Petitioner Companies to comply with the observations pointed out by the Official Liquidator, before the Scheme is allowed.	The Petitioner/Transferor has complied with the observations pointed out by the Official Liquidator and Reply Affidavit has been filed by the Petitioner/ Transferor Company before this Tribunal on 04.06.2024.
Page 3 Para 5	With reference to this Directorate's letter dated 01.05.2024, issued to The Addl. Commissioner of I. Tax, Hyderabad, till date no reply/comments in the matter has been submitted to this Directorate. Tribunal may be pleased to direct the Petitioner Companies to furnish an undertaking that, if any demand arises from the Income Tax Department with respect to Transferor Company and Transferee Company, Transferee Company is ready to pay the said statutory dues.	The copies of the Company Petition were served on the concerned Income Tax Authorities on 25.04.2024 and 26.04.2024 and they have not filed any objections in regard to the proposed Scheme of Amalgamation. Further, the Transferee Company undertakes to discharge any demand, if so arise, from the Income Tax Department with respect to the taxes/dues payable by the Transferor Company.
Page 3 Para 6	On examination of the contents of the scheme, replies of the petitioner companies and apart from the observations stated in para 8 above, the observation of the Deponent is as under:	
Page 3 Para 6 (a)	Transferor Company is a Wholly Owned Subsidiary of Transferee Company and there shall be no issue of shares as consideration for the amalgamation of Transferor Company with Transferee Company.	There shall be no issue of shares by the Petitioner Company /Transferee Company as consideration for the proposed scheme of Amalgamation of Transferor Company with Transferee Company.



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Page & Para Nos.	Regional Director's Report filed on 31.07.2024 / observations	Reply Affidavit filed on 01.08.2024 by the Petitioner Companies
Page 3 Para 6 (b)	The Transferee Company shall account for the amalgamation of Transferor Company in its books of account as per the Business Combinations (IND AS) – 103 and other applicable Accounting Standards.	The Petitioner/Transferee Company shall comply with necessary Accounting Standards including Business Combinations (IND AS) – 103 for the proposed Scheme of Amalgamation of Transferor Company with Transferee Company.
Page 4 Para 6 (c)	All the assets and liabilities of Transferor Company shall be accounted in the books of accounts of Transferee Company at their fair value and inter-company balances between Transferor and Transferee Companies shall stand cancelled.	The Transferee Company shall record all the assets and liabilities of the Transferor Company at their respective fair values and inter-company balances if any between and the Transferor and Transferee Companies shall get cancelled.
Page 4 Para 6 (d)	Since the Transferee Company is a listed company, it shall comply with the provisions of SEBI (LODR) Regulations, 2015.	The Petitioner/Transferee Company shall undertake to comply with the necessary provisions of SEBI (LODR) Regulations, 2015 with regard to the proposed Scheme of Amalgamation between Transferor Company and Transferee Company.
Page 4 Para 6 (e)	The Appointed Date in the Scheme is stated as May 25, 2023. The Petitioner Companies have not furnished their Financial Statements as on the Appointed Date along with the petition/reply dated 16/05/2024 submitted to the office of the Deponent to furnish comments thereupon. However, the present Scheme is a merger of wholly owned subsidiary company with its Holding Company which does not change the Capital Structure of the Transferee Company on post arrangement.	The Petitioner/Transferee Company being a holding company of the Transferor Company and as such there will be no material impact either on financial statements, except as stated above, or on the Capital Structure of the Transferee Company post sanctioning of the Scheme by this Tribunal.



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Hence, from the above report of the RD, it can be understood that there are no tenable objections raised and that the queries posed to the companies were also answered. Hence, the direction as sought for by the Regional Director (RD) would stand complied.

12. The Official Liquidator (OL) made certain observations in his report filed on 04.06.2024. In response, the petitioner companies filed their reply affidavit on 04.06.2024. The observations made by the Official Liquidator and the undertakings given by the Petitioner Companies are summarized in the table below:

Page and Para Nos.	Observations of the Official Liquidator report filed on 04.06.2024	Reply Affidavit to the report of the official liquidator filed by petitioner companies on 04.06.2024
Page 6 Para 22 (a)	That, the Clause (C) of preamble as well as Clause 7 of Part-II of the Scheme, the Transferor Company is a wholly owned subsidiary of Transferee Company and therefore there shall be no issue of shares as consideration for the amalgamation of Transferor Company with the Transferee Company.	The Transferor Company is a wholly owned subsidiary of the Transferee Company and therefore there shall be no issue of shares as consideration for the proposed amalgamation.
Page 6 Para 22 (b)	That, the Clause 5.1 of Part-II of the Scheme seeks to protect all employees of the Transferor Company shall become employees of Transferee Company with effect from the <u>Effective Date</u> . Hence, this Tribunal may be pleased to direct the Transferor and Transferee Companies to submit an undertaking to this Tribunal to the effect that there would be no retrenchment of any employee who were in service <u>as on the Appointed Date</u> (i.e. 25.05.2023) as well.	The Petitioner Companies (Transferor Company and Transferee Company) undertake that there would no retrenchment of any employees who were in service as on the appointed date i.e. 25.05.2023.



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Page and Para Nos.	Observations of the Official Liquidator report filed on 04.06.2024	Reply Affidavit to the report of the official liquidator filed by petitioner companies on 04.06.2024
Page 6 Para 22 (c)	That, as per Clause 11 of Part-II of the Scheme, the Transferor Company shall stand dissolved without winding up and the Board and any committees thereof of Transferor Company shall without any further act, instrument or deed be and stand discharged and from the Effective Date, the name of the Transferor Company shall be deemed to be struck off from the records of the concerned RoC.	There are the facts pertaining to the Petitioner Companies and hence no reply is required for the same.
Page 7 Para 22 (d)	That, as per Note-4 of financial statements of Transferor Company as at 31.03.2023, an amount of Rs.333.83 lakhs has been shown as "Loans and advances from related parties" under the head of "Long term borrowings". In this regard, the Transferor Company vide letter dated 30.05.2024 (received on 31.05.2024) stated that the Company had borrowed/taken interest free loan from Mr.Abhijeet Pai and Ms.Neevaditha Pai, the then Directors and accordingly related parties, for business requirements of the company and the said loan stands fully repaid by the company on 14.12.2023.	There are the facts pertaining to the Petitioner Companies and hence no reply is required for the same.
Page 7 Para 22 (e)	That, as per Point xi(c) of Annexure-A attached to the Audit Report dated 18.05.2023 for the financial statements of the Transferor Company as at 31.03.2023, the Auditor's Remarks are "We have taken into consideration the whistle blower complaints received by the company during the year while determining the nature, timing and extent of our audit procedure". In this regard, the Transferor Company vide letter dated 30.05.2024 (received on 31.05.2024) has clarified that the Company/Statutory auditors have not received any whistle blower complaints during the financial year ended 31.03.2023.	There are the facts pertaining to the Petitioner Companies and hence no reply is required for the same.



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Page and Para Nos.	Observations of the Official Liquidator report filed on 04.06.2024	Reply Affidavit to the report of the official liquidator filed by petitioner companies on 04.06.2024
Page 7 Para 22 (f)	That, as per Note-29 of financial statements of the Transferee Company as at 31.03.2023, an amount of Rs.13.05 Crores has been shown as “Accrued and unpaid Preference dividend” under the head of “Contingent Liabilities”. In this regard, the Transferor Company vide letter dated 30.05.2024 (received on 31.05.2024) has stated that the Transferee Company has fully redeemed the said preference shares during the financial year 2023-24.	There are the facts pertaining to the Petitioner Companies and hence no reply is required for the same.
Page 7 Para 22 (g)	That, the Transferee Company is a listed company and with regard to NoC of SEBI & Stock Exchange on which equity shares of the Transferee Company are listed, the Transferor Company vide letter dated 09.05.2024 informed that, the equity shares of Transferee Company are listed on BSE Ltd., and only an intimation was required to be given to BSE Ltd., since it is an amalgamation between Transferee Company and its wholly owned subsidiary and hence there is no requirement to obtain NOC from the stock exchange.	There are the facts pertaining to the Petitioner Companies and hence no reply is required for the same.

The Official Liquidator (OL) accepted the submissions made by the Petitioners and did not raise any objections for accepting the Scheme of Amalgamation of the Petitioner Companies.

13. Accounting Treatment Certificate:

It is submitted that the proposed Scheme is in conformity with the accounting standards as prescribed under Section 133 of the Companies Act, 2013. A copy of the Certificate issued by **M/s.Deloitte Haskins & Sells LLP**, Chartered Accountants, Statutory Auditors of the 2ndPetitioner/Transferee Company certifying that the accounting treatment as specified in the Scheme, is in compliance with all the applicable accounting



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standards notified under the Companies (Indian Accounting Standards) Rules, 2015 as amended from time to time.

(A copy of the certificate issued by the M/s. Deloitte Haskins & Sells LLP, Chartered Accountants certifying that the Accounting Treatment is filed at Annexure-9 at page nos.253-255 of the Petition).

14. **No Valuation Report and Fairness Report:**

As the 1st Petitioner/Transferor Company is a wholly owned subsidiary of the 2nd Petitioner/Transferee Company and pursuant to the Scheme, no consideration is proposed to be paid, hence, the requirement of obtaining a valuation report and fairness opinion is not applicable in this case.

15. **Intimation to the Stock Exchange:**

- i. It is respectfully submitted that the 2nd Petitioner/Transferee Company is a listed company having its equity shares listed and traded on the BSE Limited. However, since the present Scheme solely provides for the amalgamation of its wholly owned subsidiary into its parent company, no approval is required from the Stock Exchange or Securities and Exchange Board of India (“SEBI”) for the Scheme, in terms of provisions of Regulation 37 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations 2015 (“SEBI Regulations”), read with SEBI Master Circular No. SEBI/HO/CFD/POD-2/P/CIR/2023/93 dated 20th June, 2023.
- ii. In terms of the SEBI Regulations, the present Scheme is only required to be filed with BSE Limited (the Stock Exchange where the Transferee Company is listed) for the purpose of disclosure and dissemination on its website. In compliance with Regulation 37(6) of the SEBI Regulations, the 2nd



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Petitioner/Transferee Company has filed the copy of the aforesaid Scheme and Board Resolutions of the 1st Petitioner/Transferor Company and 2nd Petitioner/Transferee Company approving the Scheme, with BSE Limited for the purpose of disclosure.

(A Copy of the email sent to BSE for filing of the Scheme is filed as Annexure-10 at page Nos256 of the Petition).

16. We have heard the Learned Counsel for the Petitioner Companies and perused the material papers on record. Considering the entire facts and circumstances of the case and on perusal of the Scheme, Report of the Regional Director, reply/undertaking of the Petitioner Companies thereon, report of the Official Liquidator, and the documents produced on record, we consider the Scheme of Amalgamation is fair and reasonable and not contrary to public policy and not violative of any provisions of law. All the statutory compliances have been made under Sections 230 to 232 of the Companies Act, 2013.

ORDER

17. After hearing the Learned Counsel for the Petitioner Companies and after considering the material on record, the following order is passed:
- i. The Scheme of Amalgamation, which is filed at Annexure-7 at page nos. 228-238 of the petition is hereby sanctioned and confirmed with appointed date as 25.05.2023 and shall be binding on all the members, employees, creditors, concerned statutory, regulatory authorities and all other stakeholders of the Petitioner Companies.



- ii. While approving the Scheme, we make it clear that this order should not be construed as an order in anyway granting exemption from payment of stamp duty, taxes or any other charges, if any, payable, in accordance with law or in respect of any permission/compliance with any other requirement which may be specifically required under any law.
- iii. The whole of the assets, property, rights and Liabilities of the Transferor Company shall be transferred without the requirement of any further act or deed to the Petitioner/Transferee Company.
- iv. We direct the Petitioner companies to comply with all the observations pointed out by the Regional Director and Official Liquidator, if any.
- v. We direct the Petitioner Companies to preserve the books of accounts and papers and records and the same shall not be disposed of without the prior permission of the Central Government in terms of the provisions of Section 239 of the Companies Act, 2013.
- vi. We direct the Petitioner Companies to ensure statutory compliance of all applicable laws and also on sanctioning of the present Scheme, the Petitioner Companies shall not be absolved from any of its statutory liabilities, in any manner.
- vii. We direct the Petitioner Companies involved in the Scheme, to comply with Rule 17(2) of the Companies (Compromise, Arrangement and Amalgamation) Rules, 2013. The Petitioner Companies within 30 days after the date of receipt of certified copy of the order, shall cause certified copy to be delivered in the



Form INC-28 to the Registrar of Companies concerned for registration and on such certified copy being delivered, Registrar of Companies concerned shall take all necessary consequential action in respect of the Petitioner Companies.

- viii. The Petitioner Companies are further directed to take all consequential and statutory steps required in pursuance of the approved Scheme of Amalgamation under the provisions of the Companies Act, 2013 and submit necessary compliance and undertaking relating to the objections raised by the Regional Director (SER), MCA, Government of India, Hyderabad and Official Liquidator, Hyderabad.
- ix. All the legal proceedings pending by/or against the Transferor Company shall be continued by/or against the Transferee Company.
- x. The tax implications, if any, arising out of the Scheme is subject to final decision of the Tax Authorities concerned and the decision of the Tax Authorities concerned shall be binding on the Transferee Company.
- xi. The Transferee Company is directed to strictly comply with the Accounting Treatment Standards prescribed under Section 133 of the Companies Act, 2013.
- xii. The sanction of the Scheme by this Tribunal shall not forbid the Revenue Authority from taking appropriate recourse for recovering the existing and previous tax liabilities of the Transferor Company and Transferee Company.



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- xiii. We direct the Transferee Company to comply with the provisions of Section 2(41) of the Companies Act, 2013, if applicable.
- xiv. The Transferor Company shall be dissolved without going through the process of winding up.
- xv. The Petitioner Companies shall until the completion of the Scheme of Amalgamation, file a statement in such form and within such time as prescribed with the Registrar every year duly certified by the Chartered Accountant or a Cost Accountant or a Company Secretary to the effect that the Scheme of Amalgamation is being complied in accordance with the orders of this Tribunal as required under Section 232(7) of the Companies Act, 2013.
- xvi. All concerned shall act on a copy of this order along with Scheme duly authenticated by the Deputy/Assistant Registrar of this Tribunal.
- xvii. Any person shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
- xviii. Accordingly, the Company Petition bearing CP(CAA) No. 12/230/HDB/2024 is allowed and stands disposed of.



SANJAY PURI
MEMBER (TECHNICAL)

Apoorva




RAJEEV BHARDWAJ
MEMBER (JUDICIAL)

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Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP(CAA) No. 12/230/HDB/2024
निर्णय का तारीख
DATE OF JUDGEMENT 8/8/2024
प्रति तैयार किया गया तारीख
COPY MADE READY ON 12/8/2024

SCHEME OF AMALGAMATION

Annexure - 7

OF

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SOUBHAGYA CONFECTIONERY PRIVATE LIMITED

WITH

LOTUS CHOCOLATE COMPANY LIMITED

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

UNDER SECTIONS 230 TO 232 AND OTHER APPLICABLE PROVISIONS OF

THE COMPANIES ACT, 2013



(A) THE SCHEME

This scheme of amalgamation provides for the amalgamation of Soubhagya Confectionery Private Limited, a wholly-owned subsidiary of Lotus Chocolate Company Limited with Lotus Chocolate Company Limited pursuant to Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 ("Act"). It also provides for various other matters consequent and incidental thereto.

(B) DESCRIPTION OF COMPANIES

1. **Soubhagya Confectionery Private Limited** is a company incorporated under the provisions of the Companies Act, 1956 (hereinafter referred to as "SCPL" or "Amalgamating Company") having Corporate Identity Number U15419TG1994PTC005439 and its registered office at #160/A, S.V. Co-Op Industrial Estate, I.D.A, Bollaram, Telangana- 502 325, India. SCPL is in the business of bulk and contract manufacturing of confectionary products and derivatives for various consumer brands and manufacturing of chocolates and cocoa products for sale to bakeries and corporates.
2. **Lotus Chocolate Company Limited** is a company incorporated under the Companies Act, 1956 (hereinafter referred to as "LCCL" or "Amalgamated Company") having Corporate Identity Number L15200TG1988PLC009111 and registered office at Office-8-2-596, 1st floor, 1b, Sumedha estates, Avenue-4 IVRCL Towers, Street no.1, Rd.10, Banjara Hills, Hyderabad-500 034, India. LCCL is engaged in business of manufacturing, trade, sale, import and export of ice cream covering, cocoa derivatives and chocolate products, both pure chocolates as well as compound variants. The equity shares of LCCL are listed on BSE Limited.

(C) RATIONALE

SCPL is a wholly owned subsidiary of LCCL. Both LCCL and SCPL are in similar lines of business. It is proposed to amalgamate SCPL with LCCL to consolidate the business of both companies within a single entity with a view to achieve operational synergies and efficiency in administrative functions. The Scheme will result in cost savings

For Lotus Chocolate Company Limited

For SOUBHAGYA CONFECTIONERY PVT. LIMITED.

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Authorised Signatory

Y. S. S.
Company Secretary

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through operational synergies, pooling of resources, legal entity rationalisation and reduction of administrative responsibilities, and legal & regulatory compliances.

The Scheme is in the interest of SCPL, LCCL and their respective stakeholders.

(D) **PARTS OF THE SCHEME**

PART I deals with the definitions, details of share capital of the Parties (*as defined hereinafter*) and date of taking effect and implementation of this Scheme; **PART II** deals with amalgamation of SCPL with LCCL and other related matters; and **PART III** deals with the general terms and conditions applicable to this Scheme.

PART – I

DEFINITIONS, SHARE CAPITAL OF THE PARTIES AND DATE OF TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME

1. DEFINITIONS

1.1 In this Scheme, unless inconsistent with the subject or context thereof (i) capitalised terms defined by inclusion in quotations and/or parenthesis shall have the meanings so ascribed; and (ii) the following expressions shall have the meanings ascribed hereunder:

“Applicable Law” or **“Law”** means any applicable national, foreign, provincial, local or other law including applicable provisions of all (a) constitutions, decrees, treaties, statutes, enactments, laws (including the common law), bye-laws, codes, notifications, rules, regulations, policies, guidelines, circulars, clearances, approvals, directions, directives, ordinances or orders of any Appropriate Authority, statutory authority, court, Tribunal; (b) Permits (*as defined hereinafter*); and (c) orders, decisions, writs, injunctions, judgments, awards and decrees of or agreements with any Appropriate Authority (*as defined hereinafter*) having jurisdiction over the Parties in each case having the force of law and that is binding or applicable to a Person as may be in force from time to time;

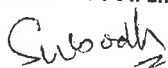
“Appointed Date” means May 25, 2023;

“Appropriate Authority” means: (a) the government of any jurisdiction (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, tribunals, central bank, commission or other authority thereof; (b) any governmental, quasi-governmental or private body, self-regulatory organisation, or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, statutory, licensing, competition, Tax, importing, exporting or other governmental or quasi-governmental authority including without limitation, SEBI (*as defined hereinafter*) and the Tribunal; and (c) Stock Exchange;


“Board” in relation to the Parties, means the board of directors of such Party, and shall include a committee of directors or any person authorized by such board of directors or such committee of directors;

“Effective Date” means the date on which the Tribunal sanctions the Scheme;

For SOUBHAGYA CONFECTIONERY PVT. LIMITED.


Authorised Signatory

For Lotus Chocolate Company Limited


Company Secretary



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Reference in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "effect of this Scheme" or "upon the Scheme becoming effective" shall mean the Effective Date;

"Parties" means SCPL and LCCL, collectively and "Party" shall mean each of them, individually;

"Permits" means all consents, licences, permits, certificates, permissions, authorisations, clarifications, approvals, clearances, confirmations, declarations, waivers, exemptions, registrations, filings, no objections, whether governmental, statutory, regulatory or otherwise as required under Applicable Law;

"Person" means an individual, a partnership, a corporation, a limited liability partnership, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or an Appropriate Authority;

"RoC" means the Registrar of Companies, Hyderabad having jurisdiction over the Parties;

"SEBI" means the Securities and Exchange Board of India;

"Scheme" or "the Scheme" or "this Scheme" means this scheme of amalgamation, as may be modified from time to time;

"Stock Exchange" means BSE Limited;

"Tax Laws" means all Applicable Laws dealing with Taxes including but not limited to income-tax, wealth tax, sales tax/ value added tax, service tax, goods and service tax, excise duty, customs duty or any other levy of similar nature;

"Taxation" or "Tax" or "Taxes" means all forms of taxes and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions and levies, whether levied by reference to income, profits, book profits, gains, net wealth, asset values, turnover, added value, goods and services or otherwise and shall further include payments in respect of or on account of Tax, whether by way of deduction at source, collection at source, dividend distribution tax, buyback distribution tax, equalization levy, advance tax, minimum alternate tax, goods and services tax or otherwise or attributable directly or indirectly to any of the Parties and all penalties, charges, costs and interest relating thereto; and

"Tribunal" means the Hyderabad bench of the National Company Law Tribunal having jurisdiction over the Parties.

1.2 Interpretation

In this Scheme, unless the context otherwise requires:


1. words denoting the singular shall include the plural and *vice versa*;
2. reference to any law or legislation shall include the rules and regulations thereunder;



For SOUBHAGYA CONFECTIONERY PVT. LIMITED.


Authorised Signatory

For Lotus Chocolate Company Limited


Company Secretary
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3. headings, sub-headings, titles, sub-titles to clauses, sub-clauses and paragraphs are for information and convenience only and shall be ignored in construing the Scheme; and
4. all terms and words not defined in this Scheme shall unless repugnant or contrary to the context or meaning thereof, have the same meaning as prescribed to them under the Act, Income-tax Act, 1961 or any other applicable laws, rules, regulations, bye laws, as the case may be including any statutory modification or re-enactment thereof from time to time.

2. SHARE CAPITAL

2.1 The share capital structure of SCPL as on January 2, 2024 is as follows:

Particulars	Amount (in Rs.)
Authorized Share Capital	
30,00,000 equity shares of Rs 10 each	3,00,00,000
TOTAL	3,00,00,000
Issued, subscribed and paid-up share capital	
14,80,000 equity shares of Rs 10 each fully paid up	1,48,00,000
TOTAL	1,48,00,000

2.2 The share capital structure of LCCL as on January 2, 2024 is as follows:

Particulars	Amount (In Rs.)
Authorized Share Capital	
1,40,00,000 equity shares of Rs 10/- each	14,00,00,000
5,87,93,200 Preference shares of Rs 10/- each	58,79,32,000
TOTAL	72,79,32,000
Issued, Subscribed and Paid-up share capital	
1,28,41,049 equity shares of Rs 10/- each fully paid up	12,84,10,490
5,07,93,200 Non-cumulative, non-convertible, non-participating and redeemable preference shares of Rs 10/- each	50,79,32,000
TOTAL	63,63,42,490

3. DATE OF TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME

3.1 This Scheme shall become effective from the Appointed Date but shall be operative from the Effective Date.

PART – II

AMALGAMATION OF SCPL WITH LCCL

4. AMALGAMATION AND VESTING OF ASSETS AND LIABILITIES AND ENTIRE BUSINESS OF SCPL

4.1 Upon coming into effect of the Scheme, with effect from the Appointed Date and in accordance with the provisions of this Scheme and pursuant to Sections 230 to 232 and other applicable provisions of the Act and Section 2(1B) of the Income-tax Act,

For SOUBHAGYA CONFECTIONERY PVT. LIMITED.

For Lotus Chocolate Company Limited

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1961, SCPL shall stand amalgamated with LCCL as a *going concern* and all assets and liabilities of SCPL (whether or not recognised in the books of SCPL) shall, without any further act, instrument or deed, stand transferred to and vested in or be deemed to have been transferred to and vested in LCCL, so as to become on and from the Appointed Date, the assets and liabilities of LCCL by virtue of operation of law and in the manner provided in this Scheme.

- 4.2 With respect to the assets and properties of SCPL which are movable in nature (including but not limited to plant and machinery) or are otherwise capable of transfer by delivery or possession or by endorsement, shall stand transferred upon coming into effect of this Scheme and shall, *ipso facto* and without any other order to this effect, become the assets and properties of LCCL without requiring any deed or instrument of conveyance for transfer of the same.
- 4.3 With respect to the assets and properties of SCPL other than those referred to in Clause 4.2 above, including all rights, title and interests in the agreements (including agreements for lease or license of the properties), investments, sundry debtors, claims from customers or otherwise, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any, with any Appropriate Authority, customers and other Persons, whether or not the same is held in the name of SCPL, the same shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in LCCL with effect from the Appointed Date by operation of law as transmission in favour of LCCL. With regard to assets such as leases or licenses of the properties, LCCL will enter into novation agreements, if it is so required.
- 4.4 All the patents, trademarks and copyrights of SCPL (whether registered or unregistered), along with all rights relating thereto (including attached goodwill, title, interest, labels and brand registrations) and all such other industrial and intellectual property rights of whatsoever nature of SCPL shall stand vested in LCCL pursuant to the operation of law. LCCL shall take such actions including execution of such deeds, contracts, agreements as may be necessary and permissible under the Applicable Law to get the same vested and/or registered in the name of LCCL.
- 4.5 In respect of such of the assets and properties of SCPL which are immovable in nature, whether or not recorded in the books of SCPL, including rights, interest and easements in relation thereto, the same shall stand transferred to and be vested in LCCL with effect from the Appointed Date, without any act or deed or conveyance being required to be done or executed by SCPL and/or LCCL.
- 4.6 For the avoidance of doubt and without prejudice to the generality of Clause 4.5 above and Clause 4.7 below, it is clarified that, with respect to the immovable properties of SCPL in the nature of land and buildings, LCCL shall register the true copy of the order of the Tribunal approving the Scheme with the offices of the relevant Sub-registrar of Assurances or similar registering authority having jurisdiction over the location of such immovable property and shall also execute and register, as required, such other documents which may be necessary in this regard. It is clarified that any document executed pursuant to this Clause 4.6 will be for the limited purpose of meeting regulatory requirements and shall not be deemed to be a document under which the transfer of any asset of SCPL takes place and all assets of SCPL shall be transferred solely pursuant to and in terms of this Scheme and the order of the Tribunal sanctioning this Scheme.

For SOUBHAGYA CONFECTIONERY PVT. LIMITED.


Authorised Signatory

For Lotus Chocolate Company Limited


Company Secretary



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- 4.7 Upon effectiveness of the Scheme, all debts, liabilities, loans, obligations and duties of SCPL as on the Appointed Date shall, without any further act or deed, be and stand transferred to and be deemed to be transferred to LCCL to the extent that they are outstanding as on the Appointed Date and LCCL shall meet, discharge and satisfy the same.
- 4.8 Unless otherwise agreed to between SCPL and LCCL, the vesting of all the assets of SCPL, as aforesaid, shall be subject to encumbrances, if any, over or in respect of any of the assets or any part thereof, provided however that such encumbrances shall be confined only to the relevant assets of SCPL or part thereof on or over which they are subsisting on and no such encumbrances shall extend over or apply to any other asset(s) of LCCL. Any reference in any security documents or arrangements (to which SCPL is a party) related to any assets of SCPL shall be so construed to the end and intent that such security shall not extend, nor be deemed to extend, to any of the other asset(s) of LCCL. Similarly, LCCL shall not be required to create any additional security over the assets vested under this Scheme for any loans, deposits or other financial assistance already availed of /to be availed of by it, and the encumbrances in respect of such indebtedness of LCCL shall not extend or be deemed to extend or apply to the assets so vested.
- 4.9 If SCPL is entitled to any unutilized credits (including accumulated losses and unabsorbed depreciation, book loss and book depreciation, minimum alternate tax credit, withholding tax, advance tax, sales tax, excise duty, customs duty, service tax, value added tax, goods and service tax, other incentives), benefits under the state or central fiscal / investment incentive schemes and policies or concessions under any Tax law or Applicable Law, any subsidies, special status, benefits, privileges granted by Appropriate Authority or by any other Person, LCCL shall be entitled, as an integral part of the Scheme, to claim such benefit or incentives or unutilised credits as the case may be without any specific approval or permission. Without prejudice to the generality of the foregoing, in respect of unutilized input credits of goods and service tax and value added tax of SCPL, if any, the same shall be transferred to LCCL in accordance with the Applicable Law.
- 4.10 With effect from the Appointed Date, all the Permits held or availed of by, and all rights and benefits that have accrued to SCPL shall be transferred to LCCL, without any further act, instrument or deed and shall be appropriately mutated or endorsed by the Appropriate Authorities concerned therewith in favour of LCCL as if the same were originally given by or issued to or executed in favour of LCCL and LCCL shall be bound by the terms, obligations and duties thereunder and the rights and benefits under the same shall be available to LCCL to carry on the operations of SCPL without any hindrance, whatsoever.
- 4.11 On coming into effect of this Scheme, without any further act or deed and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, engagements, arrangements and other instruments (including all licences and other assurances in favour of SCPL or powers or authorities granted by or to it) of whatsoever nature to which SCPL is a party or to the benefit of which SCPL may be eligible, or under which SCPL has any obligations to discharge and which are subsisting or having effect shall, without any further act, instrument or deed, continue in full force and effect in favour of or against LCCL and may be enforced as fully and effectually as if, instead of SCPL, LCCL had been a party or beneficiary or obligee or obligor thereto or thereunder.



For SOUBHAGYA CONFECTIONERY PVT. LIMITED.

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For Lotus Chocolate Company Limited

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Company Secretary

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- 4.12 On and from the Effective Date and till such time that the name(s) of the bank accounts of SCPL have been replaced with that of LCCL, LCCL shall be entitled to maintain and operate the bank accounts of SCPL in the name of SCPL for such time as may be determined to be necessary by LCCL. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of SCPL after the Effective Date shall be accepted by the bankers of LCCL and credited to the account of LCCL, if presented by LCCL.
- 4.13 Without prejudice to the provisions of the foregoing sub-clauses of this Clause 4 and upon the effectiveness of this Scheme, SCPL and LCCL may execute any and all instruments or documents and do all the acts, deeds and things as may be required, including filing of necessary particulars and/ or modification(s) of charge, necessary applications, notices, intimations or letters with any Appropriate Authority or Person to give effect to the Scheme.
- 4.14 For the purpose of giving effect to the amalgamation order passed under Section 232 and other applicable provisions of the Act in respect of this Scheme by the Hon'ble Tribunal, LCCL shall, at any time pursuant to the orders approving this Scheme, be entitled to get the recordal of the change in the legal right(s) upon the amalgamation of SCPL in accordance with the provisions of Section 230 to 232 of the Act. LCCL is and shall always be deemed to have been authorized to execute any pleadings, applications, forms, etc., as may be required to remove any difficulties and facilitate and carry out any formalities or compliances as are necessary for the implementation of this Scheme.

5. EMPLOYEES

- 5.1 With effect from the Effective Date, all employees of SCPL shall become employees of LCCL on terms and conditions no less favourable than those on which they are engaged by SCPL without interruption in service.
- 5.2 The accumulated balances, if any, standing to the credit of and in favour of the aforesaid employees in the existing provident fund, gratuity fund, superannuation fund and any other fund of which they are members, as the case may be, will be transferred to the respective funds of LCCL set-up in accordance with Applicable Law and caused to be recognized by the Appropriate Authorities or to the funds nominated by LCCL. Pending the transfer as aforesaid, the dues of the said employees would continue to be deposited in the existing provident fund, gratuity fund, superannuation fund and other fund respectively of SCPL and such funds shall be held for the benefit of the employees transferred under the Scheme.

6. LEGAL PROCEEDINGS

- 6.1 If any suit, cause of actions, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatever nature (hereinafter called the "Proceedings of SCPL") by or against SCPL are pending on the Effective Date, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the amalgamation or of anything contained in this Scheme, but the Proceedings of SCPL may be continued, prosecuted and enforced by or against LCCL in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against SCPL as if this Scheme had not been made. On and from the Effective Date, LCCL may initiate any legal proceeding(s) for and on behalf of SCPL.



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For Lotus Chocolate Company Limited

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Company Secretary

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6.2 From the Appointed Date and until the Effective Date, SCPL shall defend all legal proceedings, other than in the ordinary course of business, with the advice and instructions of LCCL.

7. CONSIDERATION

7.1 SCPL is a wholly owned subsidiary of LCCL. Therefore, there shall be no issue of shares as consideration for the amalgamation of SCPL with LCCL.

8. ACCOUNTING TREATMENT

Upon the Scheme coming into effect and with effect from the Appointed Date, LCCL shall account for the amalgamation of SCPL in its books of account as per the 'Acquisition Method' prescribed under Indian Accounting Standard (IND AS) 103 – "Business Combinations" and other applicable accounting standards as notified under the Companies (Indian Accounting Standards) Rules, 2015 as amended from time to time:

8.1 All assets and liabilities of SCPL shall be accounted in the books of accounts of LCCL at their fair value as on the Appointed Date.

8.2 Inter-company balances, if any, between LCCL and SCPL, shall stand cancelled.

8.3 The net difference, if any, between (i) the fair value of assets and liabilities of SCPL as per Clause 8.1 after making adjustments as per clause 8.2 above and (ii) the carrying value of investment in the equity shares of SCPL in the books of LCCL, shall be accounted as goodwill or capital reserve, as the case may be.

9. TAXES/ DUTIES/ CESS

9.1 This Scheme has been drawn up to comply with the conditions as specified under Section 2(1B) of the Income-tax Act, 1961 and other relevant provisions of the Income-tax Act, 1961 involving as aforesaid. If any of the terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said sections at a later date including resulting from a retrospective amendment of law or for any other reason whatsoever, till the time the Scheme becomes effective, the provisions of the said sections of the Income-tax Act, 1961 shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with Section 2(1B) of the Income-tax Act, 1961 and other relevant sections of the Income-tax Act, 1961.

Upon the effectiveness of the Scheme, by operation of law pursuant to the order of the Tribunal:

9.2 Taxes of whatsoever nature including advance tax, self-assessment tax, regular assessment taxes, tax deducted at source, dividend distribution tax, minimum alternative tax, if any, paid by SCPL shall be treated as paid by LCCL and it shall be entitled to claim the credit, refund, adjustment for the same as may be applicable. Further, any tax deducted at source by SCPL/LCCL on payables to LCCL/SCPL, respectively, which income shall not be accrued in the books pursuant to the Scheme, shall also be deemed to be advance taxes paid by LCCL and shall, in all proceedings, be dealt with accordingly.

For Lotus Chocolate Company Limited



For SUBHAGYA CONFECTIONERY PVT. LIMITED.

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Company Secretary

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- 9.3 Parties are expressly permitted to revise and file their income tax returns and other statutory returns, along with the necessary forms, filings and annexures even beyond the due date, if required, including tax deducted / collected at source returns, service tax returns, excise tax returns, sales tax / value added tax / goods and service tax returns, as may be applicable and has expressly reserved the right to make such provision in its returns and to claim refunds, advance tax credits, credit of tax deducted at source, credit of foreign Taxes paid/withheld, etc. if any, as may be required for the purposes of/consequent to implementation of the Scheme.
- 9.4 It is hereby clarified that in case of any refunds, benefits, incentives, grants, subsidies, etc., LCCL, if so required, shall issue notice in the name of SCPL, in such form as it may deem fit and proper stating that pursuant to the Tribunal having sanctioned this Scheme under Sections 230 to 232 of the Act, the relevant refund, benefit, incentive, grant, subsidies, be paid or made good or held on account of LCCL, as the person entitled thereto, to the end and intent that the right of SCPL, to recover or realise the same, stands transferred to LCCL.
- 9.5 Obligation for deduction of tax at source on any payment made by or to be made by SCPL, under Tax Laws or other applicable laws / regulations dealing with Taxes/ duties / levies duly complied by SCPL shall be made or deemed to have been made and duly complied with by LCCL.

10. VALIDITY OF EXISTING RESOLUTIONS, ETC.

Upon this Scheme coming into effect, the resolutions/ power of attorneys/ Letter of Authority(ies) executed by SCPL, that are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions, power of attorney and Letter of Authority(ies) passed/ executed by LCCL and if any such resolutions have any monetary limits approved under the provisions of the Act or any other applicable statutory provisions, then such limits shall be added to the limits, if any, under like resolutions passed by LCCL and shall constitute the new aggregate limits for each of the subject matters covered under such resolutions for the purpose of LCCL.

11. DISSOLUTION OF SCPL

On the Scheme becoming effective, SCPL shall stand dissolved without winding up and the Board and any committees thereof of SCPL shall without any further act, instrument or deed be and stand discharged. On and from the Effective Date, the name of SCPL shall be deemed to be struck off from the records of the concerned RoC.

PART – III

GENERAL TERMS & CONDITIONS

SAVING OF CONCLUDED TRANSACTIONS

Nothing in this Scheme shall affect any transaction or proceedings already concluded or liabilities incurred by SCPL, until the Effective Date, to the end and intent that LCCL shall accept and adopt all acts, deeds and things done and executed by SCPL in respect thereto as done and executed on behalf of LCCL.

For **SOUBHAGYA CONFECTIONERY PVT. LIMITED.**

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 Authorised Signatory

For **Lotus Chocolate Company Limited**

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 Company Secretary



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13. BUSINESS UNTIL EFFECTIVE DATE

13.1 With effect from the date of approval of the Scheme by the respective Boards of the Parties and up to and including the Effective Date:

13.1.1 SCPL shall carry on its business with reasonable diligence and business prudence and in the same manner as SCPL had been doing hitherto; and

13.1.2 LCCL shall be entitled, pending the sanction of the Scheme, to apply to the Appropriate Authorities concerned as necessary under Applicable Law for such consents, approvals and sanctions which LCCL may require to carry on the business of SCPL and to give effect to the Scheme.

13.2 SCPL with effect from the Appointed Date and up to and including the Effective Date:

13.2.1 shall be deemed to have been carrying on and shall carry on its businesses and activities and shall hold and stand possessed of the assets for and on account of, and in trust for LCCL;

13.2.2 all profits or income arising or accruing to SCPL and all Taxes paid thereon (including but not limited to advance tax, tax deducted at source, minimum alternate tax, dividend distribution tax, securities transaction tax, Taxes withheld/paid in a foreign country, etc.) or losses arising or incurred by SCPL shall, be treated as and deemed to be the profits or income, taxes or losses of LCCL; and

13.2.3 all loans raised and all liabilities and obligations incurred by SCPL after the Appointed Date and prior to the Effective Date, shall, subject to the terms of this Scheme, be deemed to have been raised, used or incurred for and on behalf of LCCL in which it shall vest in terms of this Scheme and to the extent they are outstanding on the Effective Date, shall also, without any further act, instrument or deed be and be deemed to become the debts, liabilities, duties and obligations of LCCL.

14 FACILITATION PROVISION

Notwithstanding anything contained in this Scheme, on or after Effective Date, until any property, asset, license, approval, permission, contract, agreement and rights and benefits arising therefrom pertaining to SCPL are transferred, vested, recorded, effected and / or perfected, in the records of any Appropriate Authority, regulatory bodies or otherwise, in favour of LCCL, LCCL is deemed to be authorized to enjoy the property, asset or the rights and benefits arising from the license, approval, permission, contract or agreement as if it were the owner of the property or asset or as if it were the original party to the license, approval, permission, contract or agreement.

15 APPLICATIONS/ PETITIONS TO THE TRIBUNAL

The Parties shall make and file all applications and petitions under Sections 230 to 232 and other applicable provisions of the Act before the Tribunal, for sanction of this Scheme under the provisions of the Act.



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For Lotus Chocolate Company Limited

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Company Secretary

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16 MODIFICATION OR AMENDMENTS TO THIS SCHEME

16.1 The Board of the Parties acting jointly may make any modifications or amendments to this Scheme at any time and for any reason whatsoever, or which may otherwise be considered necessary, desirable or appropriate. Any modification or amendment to the Scheme by the Board of the Parties pursuant to this Clause 16.1 shall not require any further approval/ consent from the shareholders and/ or creditors if the shareholders/ creditors have already approved/ consented to the Scheme. The Board of the Parties may consent to any conditions or limitations that the Tribunal or any other Appropriate Authority may impose.

16.2 For the purposes of giving effect to this Scheme, the Board of LCCL may give such directions including directions for settling any question or difficulty that may arise and such directions shall be binding as if the same were specifically incorporated in this Scheme.

17 WITHDRAWAL OF THIS SCHEME

The Board of the Parties acting jointly shall be at liberty to withdraw the Scheme, any time before the Scheme is effective.

18 COSTS AND EXPENSES

All costs, charges and expenses payable in relation to or in connection with this Scheme and incidental to the completion of the Scheme including stamp duty on the order(s) of the Tribunal, if any, to the extent applicable and payable shall be borne and paid by LCCL.

For **SOUBHAGYA CONFECTIONERY PVT. LIMITED.**

S. Subodh
Authorised Signatory

For **Lotus Chocolate Company Limited**

J. S. N.
Company Secretary

