



# FOOD, NUTRITION AND WELL-BEING SECTOR NEWSLETTER

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# INTRODUCTION

With the increasing awareness among consumers relating to health and wellness, the food, nutrition and wellness sector has seen a tremendous growth in recent years.

For instance, the food sector in India, especially the manufacturing and processing of branded 'ready to eat' food products, has been steadily growing. The gross value addition in the food processing sector increased from INR 1.79 lakh crore in 2016-17 to INR 2.37 lakh crore in 2020-21, growing at a compounded annual growth rate ("**CAGR**") of 7.27%.<sup>1</sup> From April 2000 to December 2022, the sector received a total foreign direct investment ("**FDI**") of USD 11.79 billion.<sup>2</sup>

It is estimated that by 2025, the food processing sector will reach an output of USD 535 billion and grow at a

projected CAGR of 15.2%.<sup>3</sup> Against this backdrop, intensified funding and consolidation in this sector is evident, including by some of the major FMCG players.

The growth in this sector has led to increased scrutiny by sectoral regulators of, *inter alia*: (i) the advertising claims being made by manufacturers; (ii) the introduction of standards for newer categories of products such as 'nutraceuticals'; (iii) strengthened implementation of hygiene and safety standards; and (iv) notification of schemes for the promotion of local produce and grains.

This mid-year newsletter encapsulates some of the key regulatory developments, judicial decisions and market updates relating to the food, nutrition and wellness sector for the period between January 2023 to June 2023.

1. <https://pib.gov.in/PressReleaseframePage.aspx?PRID=1885037>

2. <https://www.investindia.gov.in/sector/food-processing#:~:text=The%20total%20FDI%20received%20in,December%202022%20is%20%24%2011.79%20Bn>

3. <https://www.investindia.gov.in/sector/food-processing>



# KEY LEGAL UPDATES

## Key initiatives in the food processing and nutraceutical sector discussed in the Lok Sabha<sup>4</sup>

As part of the Lok Sabha Session XI, on March 14, 2023 and March 28, 2023, the ministers of Food Processing Industries (Centre and State) in separate written replies to questions raised in the Lok Sabha, discussed the food processing sector. The responses discussed the: (i) Production Linked Incentive Scheme for the food processing sector which is aimed at supporting food manufacturers to create a global hub where they can market Indian food products in international markets; (ii) task force constituted by the Government of India ("GoI") for the growth of the nutraceutical sector; (iii) reported growth of the food processing sector, i.e., 10.3% between 2015-16 and 2020-21 as compared to the growth of 5.1% witnessed in the overall manufacturing sector; and (iv) launch of schemes by the GoI to address the challenges and aid in the development of the food processing sector, such as the Pradhan Mantri Kisan SAMPADA Yojana and PM-Formalisation of Micro Food Processing Enterprises.

## Food Safety and Standards Authority of India developing mandatory standards for nutraceuticals<sup>5</sup>

The Food Safety and Standards Authority of India (the "FSSAI") is collaborating with experts to establish standard operating procedure for nutraceuticals. Nutraceuticals are nutritional supplements that mostly contain vitamin C, vitamin D and zinc, and are expected to provide health benefits. In the post-covid era, the market for nutraceuticals has been growing rapidly and is expected to reach USD 18 billion by 2025.<sup>6</sup> The standards on usage of health supplements and nutraceuticals will aim to ensure the delivery of quality and reliable products to consumers and maintain safety in the usage of these products by the consumers.

## Union Budget 2023-24: Food and Nutrition related highlights<sup>7</sup>

The 2023-24 Union Budget presented by the Ministry of Finance, GoI on February 01, 2023 included the following key initiatives for the food and nutrition sector:

- i. development of Hyderabad-based Indian Institute of Millet Research as a Centre of Excellence to facilitate shaping India as an international centre for 'millets';

- ii. commitment to spending over INR 2 lakh crore in 2023 to provide food subsidy under welfare schemes under PM Garib Kalyan Anna Yojana;
- iii. setting up of an Agriculture Accelerator Fund ("AAF") to promote agri-startups in rural areas. The AAF will aid the farmers by incorporating modern, affordable technological solutions to increase productivity and profitability in agriculture;
- iv. enhancing productivity of cotton crop by adopting a cluster-based and value-chain approach through public-private partnerships. This will be achieved through collaboration between farmers, state and industry for input supplies, extension services and market lineages; and
- v. increase in agriculture credit to INR 20 lakh crore with emphasis on dairy, animal husbandry and fisheries.

## Notification of the Food Safety and Standards Authority of India (Financial) Regulations, 2023<sup>8</sup>

On January 20, 2023, the FSSAI notified the Food Safety and Standards Authority of India (Financial) Regulations, 2023 ("FSSAI Financial Regulations"). The FSSAI Financial Regulations provide for the creation of a fund ("FSSAI Fund") by FSSAI to meet the objectives of the Food Safety and Standards Act, 2006 ("Food Safety Act"). All expenses of the FSSAI are to be met through the FSSAI Fund.

## Notification of the draft Food Safety and Standards (Prohibition and Restrictions on Sales) Amendment Regulations, 2023<sup>9</sup>

On April 27, 2023, the FSSAI published the draft amendments to the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011 ("Draft Prohibition and Restrictions on Sales Amendment Regulations"). The Draft Prohibition

4. Question numbers 2141 and 392, Lok Sabha Session XI, <https://sansad.in/lis/questions/questions-and-answers>

5. <https://www.fssai.gov.in/upload/media/004.pdf>

6. [https://www.fssai.gov.in/upload/media/FSSAI\\_News\\_Nutri\\_HealthCare\\_22\\_06\\_2021.pdf](https://www.fssai.gov.in/upload/media/FSSAI_News_Nutri_HealthCare_22_06_2021.pdf)

7. [https://www.indiabudget.gov.in/doc/budget\\_speech.pdf](https://www.indiabudget.gov.in/doc/budget_speech.pdf)

8. [https://www.fssai.gov.in/upload/notifications/2023/01/63d39d7c8bdbforder\\_regulation.pdf](https://www.fssai.gov.in/upload/notifications/2023/01/63d39d7c8bdbforder_regulation.pdf)

9. [https://www.fssai.gov.in/upload/uploadfiles/files/Draft%20Notification%20\(Gazette\)%20-%20FSS\(Prohibition%20and%20restriction%20on%20sales\)%202023.pdf](https://www.fssai.gov.in/upload/uploadfiles/files/Draft%20Notification%20(Gazette)%20-%20FSS(Prohibition%20and%20restriction%20on%20sales)%202023.pdf)

and Restrictions on Sales Amendment Regulations propose to permit the sale of 'Multi-Source Edible Oil' in packages weighing not more than 15 litres, in compliance with the requirements of Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. Further, the requirement for: (i) the Bureau of Indian Standards ("**BIS**") certification for food for infant nutrition and Indian Standards Institution certification for milk products have been omitted; and (ii) agricultural marketing certification mark (AGMARK) requirement for multi-source edible vegetable oil and fat spreads, and BIS certification for packaged drinking water have been proposed to be omitted. The Draft Prohibition and Restrictions on Sales Amendment Regulations were open for public comments for a period of 60 days post their notification in April 2023.

### **Notification of the draft Food Safety and Standards (Alcoholic Beverages) Amendment Regulations, 2023<sup>10</sup>**

On May 11, 2023, the FSSAI published draft amendments to the Food Safety and Standards (Alcoholic Beverages) Regulations, 2018 ("**Draft Alcoholic Beverages Amendment Regulations**"). The Draft Alcoholic Beverages Amendment Regulations aim to introduce some key changes including: (i) introduction of a new classification of 'ready-to-drink / low alcoholic beverages' and its standards and composition; (ii) revising standards for the composition of country liquor, either in plain or blended form; (iii) addition of honey wine / mead as a new type of wine and introducing its production standards; (iv) revising the standards for wine from other agricultural and plant sources; and (v) introduction of various indigenous liquors, with specifications regarding their product names and raw material, under the existing categories of alcoholic beverages.

The Draft Alcoholic Beverages Amendment Regulations were open for public comments for a period of 60 days post their notification in May 2023.

### **Notification of the Revised Nutritional Standards under the National Food Security Act, 2013<sup>11</sup>**

On January 25, 2023, the Department of Food and Public Distribution, Ministry of Consumer Affairs, notified the revised nutritional standards for meals under the National Food Security Act, 2013 ("**NFSA**").

The nutritional requirements for children have now been updated a decade after the enactment of NFSA.

The amendment under Schedule II of the NFSA has introduced comprehensive nutritional standards for children, including various food groups and micronutrients, for children aged 6 months to 1 year and those in upper primary classes. Further, three new categories have been created for undernourished children aged between 6 months to 6 years.

### **Amendments to the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011<sup>12</sup>**

On January 11, 2023, and February 21, 2023, the FSSAI notified amendments to the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 effective from August 01, 2023 and September 01, 2023, respectively with an aim to lay down certain quality standards with respect to Basmati rice and millets in India.

### **Settlement of the 'curd' versus 'dahi' nomenclature dispute by FSSAI<sup>13</sup>**

On January 11, 2023, the FSSAI had notified provisions for the replacement of the term 'curd' with 'dahi' in the Standards of Fermented Milk Products. In light of such changes by FSSAI, many representations were made by food business operators ("**FBOs**"), especially from non-Hindi speaking states against the omission of the word 'curd'. This directive of FSSAI was alleged to be a move to "impose" Hindi.<sup>14</sup> Accordingly on March 30, 2023, FSSAI in its press release, addressed the grievance of the FBOs and allowed the usage of the word 'curd' alongside any regional nomenclature of the product, mentioned in brackets on the label of the product, such as 'curd (dahi)', 'curd (mosaru)', 'curd (zaamut daud)', 'curd (thayir)', 'curd (perugu)'.

10. <https://www.fssai.gov.in/upload/uploadfiles/files/Draft%20Notification.pdf>

11. [https://dfpd.nic.in/fgAvAHcAcgBpAHQAZQByAGUAYQBkAGQAY-QB0AGEALwBQAG8AcgB0AGEAbAAvAE0AYQBnAGEAegBpAG4AZQA-vAEQAbwBjAHUAbQBIAg4AdAAvAA==/1\\_564\\_1\\_Amendment\\_in\\_Schedule\\_II\\_of\\_NFSA\\_dated\\_25012023.pdf](https://dfpd.nic.in/fgAvAHcAcgBpAHQAZQByAGUAYQBkAGQAY-QB0AGEALwBQAG8AcgB0AGEAbAAvAE0AYQBnAGEAegBpAG4AZQA-vAEQAbwBjAHUAbQBIAg4AdAAvAA==/1_564_1_Amendment_in_Schedule_II_of_NFSA_dated_25012023.pdf)

12. [https://www.fssai.gov.in/upload/uploadfiles/files/Gazette\\_Notification.pdf](https://www.fssai.gov.in/upload/uploadfiles/files/Gazette_Notification.pdf)

13. [https://fssai.gov.in/upload/press\\_release/2023/03/64255c702a855pressrelease\\_30032023.pdf](https://fssai.gov.in/upload/press_release/2023/03/64255c702a855pressrelease_30032023.pdf)

14. <https://theprint.in/india/dahi-vs-curd-fssai-revises-order-for-hindi-label-in-curd-packets-after-row-eruptions-in-tn-karnataka/1484975/>

## FSSAI enforces Plastic Waste Management Amendment Rules, 2021<sup>15</sup>

On June 16, 2023, FSSAI issued an advisory enforcing the Plastic Waste Management Amendment Rules, 2021 ("**PWM Amendment Rules**") notified by the Ministry of Environment, Forest and Climate Change in July 2022. The PWM Amendment Rules prohibit *inter alia* the import, stocking, and use of single-use plastics such as candy-sticks, plates, cups, wrapping or packing films around sweet boxes, straws etc., that have low utility and high littering potential. Through the advisory, the FSSAI requested the Commissioner of Food Safety of all States, the Regional Directors along with the Central Licensing Authorities, to ensure that FBOs in their respective jurisdictions comply with the PWM Amendment Rules. The advisory is in line with the Government's activism towards environmental protection and its 'Swachh Bharat' campaign.

## Revised guidelines<sup>16</sup> and FAQs<sup>17</sup> released on vegan logos

On February 24, 2023, the FSSAI issued a circular, addressing frequently asked questions by FBOs on application for vegan logo endorsement ("**FAQs**").

The FAQs clarify that those products that are vegan by default, in addition to agriculture commodities which are minimally processed and raw agriculture commodities, need not apply for endorsement. The same product with multiple variants or different products from the same firm, need to be separately registered. However, if there is only a change in the design of the packaging or a quantification change of ingredients of the product, a resubmission is not required. Further, FSSAI clarified that the endorsement is given for the product of a particular manufacturing site. In case a product is manufactured at multiple sites, the retailer must apply separately for each site.

On February 24, 2023, the FSSAI also issued revised guidelines for submission of applications for vegan logo and formats ("**Revised Guidelines**"). The Revised Guidelines supersede the earlier guidelines dated July 25, 2022. As per the Revised Guidelines, the FBOs applying for a vegan logo are now required to pay an increased fee of INR 25,000 (along with the necessary documents) through the e-portal of FSSAI. Further, a proforma declaring that the products do not contain any animal components has been added as part of the document checklist and the payment mode has been revised.

## Reduction in initial application fee for FSSAI License to promote ease of doing business<sup>18</sup>

On February 10, 2023, the FSSAI issued an order reducing the initial application fee for obtaining an FSSAI license to INR 1,000 (plus goods and services tax). The object behind this reduction is to promote growth of new businesses and provide ease in obtaining such license for FBOs. However, it is pertinent to note that the total fee to be submitted by the FBOs remain the same as provided under Schedule 3 of the FSS (Licensing and Registration of Food Businesses) Regulations, 2011. The reduced initial application fee only minimises losses for applicants in case of rejection of application at the initial stage.

## Notification of Legal Metrology (Packaged Commodities) (Amendment) Rules, 2023<sup>19</sup>

On June 28, 2023, the Ministry of Consumer Affairs, Food and Public Distribution notified that the Legal Metrology (Packaged Commodities) (Amendment) Rules 2023 ("**LM Packaged Commodities Amendment Rules**") shall be effective from September 01, 2023, instead of July 01, 2023. The LM Packaged Commodities Amendment Rules were notified on November 02, 2021<sup>20</sup> necessitating, *inter alia*, the pre-packaged commodities to mandatorily declare the unit sale price in a particular format.

## Notification of Aadhaar authentication services for licensing of FBOs<sup>21</sup>

On January 16, 2023, the Ministry of Health and Family Welfare issued a notification specifying that citizens will be required to undergo Aadhaar authentication on a voluntary basis, for utilising certain FSSAI services such as: (i) registration and licensing of FBOs; (ii) inspection of FBOs; and (iii) verification of candidates attending programs organised by the FSSAI.

15. <https://www.fssai.gov.in/upload/advisories/2023/06/648c55b8155d620230616110757356.pdf>

16. [https://www.fssai.gov.in/upload/advisories/2023/02/63fc4d9d71c4dGuidelines%20dated%2024th\\_February.pdf](https://www.fssai.gov.in/upload/advisories/2023/02/63fc4d9d71c4dGuidelines%20dated%2024th_February.pdf)

17. <https://www.fssai.gov.in/upload/advisories/2023/02/63fc4a7b1f3f5Frequently.pdf>

18. [https://www.fssai.gov.in/upload/advisories/2023/02/63e60f8240016FSSAI\\_Order.pdf](https://www.fssai.gov.in/upload/advisories/2023/02/63e60f8240016FSSAI_Order.pdf)

19. <https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/2023.6.28%20amendment%20in%20amendment%20of%20PCR%20ext%20till%2031.8.2023.pdf>

20. <https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/230946.pdf>

21. <https://egazette.nic.in/WriteReadData/2023/242104.pdf>

## Streamlining of procedure for renewal of FSSAI license and registration of FBOs<sup>22</sup>

On January 11, 2023, the FSSAI issued an order streamlining the process of renewing an FSSAI license and registration ("**Order**"). According to the Order, all applications made for renewals of license and registration, on or after January 12, 2023, shall be granted instantly without requiring the approval of the Licensing Authority. The validity of the renewal of the license shall be 1 year, and for a registration shall be 1 – 5 years (based on the selection and payment made by the FBO). Further, no late fee shall be levied if the renewal application is filed within the final 30 days prior to the expiration of the license. However, it is pertinent to note that: (i) FBOs whose licenses/registrations have been suspended/cancelled cannot apply for renewal; and (ii) FBOs are not allowed to make changes to the existing details of their license / registration while applying for renewal.

## Mandate issued for upload of lab testing report<sup>23</sup>

On January 13, 2023, the FSSAI issued an order on the mechanism using which manufacturers (including re-packers and re-labellers) can file lab reports through the food safety compliance system (web portal) with the FSSAI. These lab reports are to be filed for compliance with condition number 12 of the license regarding testing of relevant chemical and/or microbiological contaminants in food products.

## Extension of enforcement of Food Safety and Standards (Advertising and Claims) Second Amendment Regulations, 2022<sup>24</sup>

On February 27, 2023, the FSSAI issued a direction extending the enforcement period of Regulation 4(7) of the Food Safety and Standards (Advertising and Claims) Second Amendment Regulations, 2022, by a period of 6 months from December 13, 2022. Regulation 4(7) specifies that in case of '*a trademark, brand name or fancy name containing adjectives such as "natural", "fresh", "pure" etc., a disclaimer that "this is only a brand name or trademark, or fancy name and does not represent its true nature" shall be mentioned prominently on the front of pack of the label*'.

## Re-operationalisation of Food Safety and Standards (Labelling and Display) Amendment Regulations, 2022<sup>25</sup>

On January 06, 2023, the FSSAI re-operationalised certain provisions of the Food Safety and Standards (Labelling and Display) Amendment Regulations, 2022 ("**Labelling and Display Amendment Regulations**"). The provisions that have been re-operationalised are: (i) optional declaration for per-serve percentage contribution to recommended dietary allowance and number of servings per pack for infant nutrition products; (ii) insertion of explanation for minimally processed foods in the context of nutritional labelling for raw agricultural products that comprise a single ingredient; (iii) deletion of processed products from the list of foods requiring mandatory nutritional labelling; (iv) increase of compliance to quantity of declared nutrients on the label to  $\pm 20\%$  of the value for that nutrient declared on the label at any point in time within declared shelf life of the product; (v) changes in the labelling requirements of non-retail consumer; and (vi) substitution of the phrase 'pregnant and lactating mothers' to 'pregnant and lactating women' throughout the Food Safety and Standards (Labelling and Display) Regulations, 2020.

## FSSAI launches surveillance drive against nutraceutical companies in Himachal Pradesh<sup>26</sup>

On March 07, 2023, the FSSAI had issued a notice to Regional Directors, FSSAI requesting them to carry out surveillance drives against nutraceutical companies located in their respective districts ("**Surveillance Drive Notice**"). This was aimed to curb the manufacture of spurious drugs by FBOs, not in compliance with the provisions of the Food Safety Act and the Food Safety and Standards (Health Supplements, Nutraceuticals,

22. <https://www.fssai.gov.in/upload/advisories/2023/01/63bfa4c0d8679FSSAI%20Order%20dated%2011-01-2023.pdf>

23. [https://www.fssai.gov.in/upload/advisories/2023/01/63c123ad24b17Order\\_Manufacturer.pdf](https://www.fssai.gov.in/upload/advisories/2023/01/63c123ad24b17Order_Manufacturer.pdf)

24. [https://www.fssai.gov.in/upload/advisories/2023/02/63fc929b699bbDirection\\_Enforcement.pdf](https://www.fssai.gov.in/upload/advisories/2023/02/63fc929b699bbDirection_Enforcement.pdf)

25. [https://www.fssai.gov.in/upload/advisories/2023/01/63bccdfe6bdafaDirection\\_Reoperationalisation.pdf](https://www.fssai.gov.in/upload/advisories/2023/01/63bccdfe6bdafaDirection_Reoperationalisation.pdf)

26. <https://www.foodtechbiz.com/food-safety-and-traceability/fssai-warns-nutraceutical-companies-in-himachal-pradesh>

Food for Special Dietary Use, Food for Special Medical Purpose, and Prebiotic and Probiotic Food) Regulations, 2022 ("**Nutraceutical Regulations**").<sup>27</sup>

Post inspection of manufacturing facilities operating in Baddi, Himachal Pradesh, the Chief Executive Officer, FSSAI convened a meeting on June 20, 2023, with the manufacturers of the district, emphasizing on the consequences of non-compliance with the Nutraceutical Regulations, which might include cancellation of license and criminal sanctions.

### **Requirement of mandatory FSSAI registration for foreign food manufacturers<sup>28</sup>**

Effective from February 01, 2023, foreign food manufacturers who intend to export the following products to India are required to mandatorily register their facilities with the FSSAI: (i) milk and milk products; (ii) meat and meat products, including poultry, fish and their products; (iii) egg powder; (iv) infant food; and/or (v) nutraceuticals. The order was issued in light of the Food Safety and Standards (Import) First Amendment

Regulations 2021, which gives power to the FSSAI to 'specify categories of food products, intended for export to India, for further regulating control'.

### **Central Government issues Foreign Trade Policy 2023**

India's Foreign Trade Policy ("**FTP**") 2023, came into effect from April 01, 2023. The FTP, *inter alia*, aims to increase India's e-commerce exports by enabling vendors to access international markets. The policy proposes to create E-Commerce Export Hubs ("**ECEHs**"), which would act as a centre for favourable business infrastructure and facilities for cross-border e-commerce activities. It will assist e-commerce aggregators with stocking, customs, clearance, returns processing and last-mile activities such as labelling, testing and packaging.

27. <https://www.fssai.gov.in/upload/advisories/2023/03/64074f3f75dacenforcement%20drive-%20nutraceuticals.pdf>

28. [https://fssai.gov.in/upload/advisories/2022/10/6343da0a0f78fOrder\\_Foreign\\_Food\\_10\\_10\\_2022.pdf](https://fssai.gov.in/upload/advisories/2022/10/6343da0a0f78fOrder_Foreign_Food_10_10_2022.pdf)



# CASE LAWS

## Service tax not payable on Take-Away of Food Items

*Haldiram Marketing Pvt. Ltd. v. Commissioner, Central Goods and Services Tax*<sup>29</sup> (February 13, 2023)

In September 2020, a show cause notice was issued by the Commissioner of Central Goods and Services Tax ("**CGST Authority**") for a service tax demand of approximately INR 23 crore, which Haldiram Marketing Private Limited (the "**Appellant**") had failed to pay for take-away services. A demand of approximately INR 20 crore was finally confirmed by the CGST Authority. Aggrieved, the Appellant had appealed under the Delhi bench of the Customs, Excise and Service Tax Appellate Tribunal ("**Tribunal**").

The Appellant relied on previously issued clarificatory circulars of the Ministry of Finance to contend that pick-up or delivery of foods or goods sold at MRP would tantamount to a mere sale and would be outside the purview of service tax. The CGST Authority contended that the Appellant was however providing 'restaurant services' from their outlet and not merely engaging in the sale of goods.

Relying on case law precedents, the Tribunal reaffirmed that no service tax can be levied on the activity of takeaway food items. This is because such activity would amount to a sale and would not involve any element of service, since services such as dining, clearing tables, use of washing area, are not involved.

## Written warranty from manufacturer can protect vendor from criminal liability under Prevention of Food Adulteration Act, 1954

*Sri Mahavir Agency v. State of West Bengal*<sup>30</sup> (April 17, 2023)

In the present case, a vendor, purchased a food item, namely 'pan parag' from the manufacturer in a sealed packaged condition and sold it ahead. The vendor was subsequently accused of offences under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act, 1954 (the "**PFA Act**") and sentenced to rigorous imprisonment of 6 months.

When the conviction was upheld by the Calcutta High Court, the vendor filed an appeal with the Hon'ble Supreme Court of India (the "**SC**") against the impugned order. The vendor argued that as per Section 19(2)(a)(ii) of the PFA Act, if the packaged item has a written warranty in the prescribed form, from the manufacturer, then the vendor cannot be deemed to have committed an offence of adulteration.

The SC upheld the argument and stated that the protection under Section 19(2) would be available to the vendor. The SC noted that the vendor had purchased the 'pan masala' from the manufacturer and it is on record that a certification was attached to the purchase by the manufacturer, as per the requirements of the PFA Act.

## Delhi High Court seeks response from FSSAI on making QR Code mandatory on all food products

*The Kapila and Nirmal Hingorani Foundation and Ors. v. Union of India*<sup>31</sup> (May 09, 2023)

The Kapila and Nirmal Hingorani Foundation filed a public interest litigation with the High Court of Delhi, seeking mandatory QR (quick-response) code feature on all food, medicinal and cosmetic products, so that their information can be translated from text-to-speech, thereby, making it more inclusive for visually impaired persons.

Thereafter, the High Court of Delhi passed an order<sup>32</sup> issuing notice to the Central Government and the FSSAI, seeking a response on the inclusion of QR Code on food, medicinal and cosmetic products. The Central Government and FSSAI have been asked to file their response by August 16, 2023.

29. *Haldiram Marketing Pvt. Ltd. v. Commissioner, Central Goods and Services Tax*, Service Tax Appeal No. 51555 of 2022.

30. *Sri Mahavir Agency v. State of West Bengal*, 2023 SCC OnLine SC 425.

31. *The Kapila and Nirmal Hingorani Foundation and Ors. v. Union of India*, High Court of Delhi, WP (C) 5985/2023

32. [https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=sm/2023/1683810026386\\_13839\\_2023.pdf](https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=sm/2023/1683810026386_13839_2023.pdf); [https://www.business-standard.com/india-news/delhi-hc-seeks-centre-s-reply-on-pil-for-qr-codes-on-medicines-cosmetics-123050900798\\_1.html](https://www.business-standard.com/india-news/delhi-hc-seeks-centre-s-reply-on-pil-for-qr-codes-on-medicines-cosmetics-123050900798_1.html)

# MARKET UPDATES

## Investment of INR 450 crore by ITC Ltd. to set up an integrated food and manufacturing logistics facility in Telangana<sup>33</sup>

ITC Ltd. ("ITC") has set up a state of the art 59-acre food processing plant in the Medak district of Telangana that, over phases, shall engage in the manufacturing of products under flagship ITC brands, including 'Sunfeast', 'Aashirvaad', 'Yippee'. This food processing plant entailed an initial investment of INR 450 crores. In line with its efforts to scale women's participation in the workforce, ITC has committed to employing women up to 50% at the overall factory level.

## Food Conclave 2023: Investment of over INR 7000 crores in food processing sector in Telangana<sup>34</sup>

On April 30, 2023, at the First Food Conclave 2023 ("Conclave"), the state of Telangana received commitments for investments worth INR 7,218 crores in the agri-food industry with the potential to generate 58,458 direct job opportunities. The Conclave was attended by key figures of the industry and resulted in the signing of 27 memorandum(s) of understanding between the Telangana government and agri-food companies.

## BCS Globals enters the Indian energy drink market with 'Wox'<sup>35</sup>

BCS Globals, a UAE based food and beverage company has entered the fast growing Indian energy drink market with the launch of the brand 'Wox'. The brand has introduced four variants of the energy drink with a focus to promote the products across tier-1, 2 and 3 cities in India. The brand has foothold in over 10 countries across the world and plans to seize a 'double-digit market share' in India in the upcoming years.

## Hindustan Unilever Limited acquires Zywie Ventures Private Limited<sup>36</sup> and Nutritionalab<sup>37</sup>

Hindustan Unilever Limited ("HUL"), announced the: (i) 100% acquisition of Zywie Ventures Private Limited, a leading plant-based, and clean-label consumer wellness company operating under the brand 'Oziva', in two tranches; and (ii) 19.8% acquisition of Nutritionalab Private Limited, a benefit-led clean health & wellbeing products-based company operating under the brand 'Wellbeing Nutrition'. With these acquisitions HUL looks to bolster its play in the emerging health and wellness sector.

## CCL Products (India) Limited acquires various coffee brands from Lofbergs Group<sup>38</sup>

CCL Products (India) Ltd. ("CCL"), India's largest instant coffee manufacturer acquired 6 coffee brands - Percol, Rocket Fuel, Plantation Wharf, The London Blend, Perk Up and Percol Fusion – from Food Brands Group, a subsidiary of the Sweden-based coffee roasters Lofbergs Group. The acquisition is estimated to be around GBP 550,000 and is part of CCL's business plan to expand its manufacturing and distribution networks of FMCG products across the globe by introducing new products, while focusing on B2C and B2B marketing.

## Pluckk acquires entire stake in Indian food-tech startup KOOK<sup>39</sup>

Pluckk, a digital fresh food brand in the fruits and vegetable industry, owned by Fruveggiiie Tech Private Limited acquired the entire stake in KOOK, an Indian food-tech start-up owned by Porridge Heads Private Limited specializing in providing pre-portioned ingredients and easy-to-follow recipes through its do it yourself ("DIY") meal kits. The acquisition was valued at USD 1,300,000. Through this acquisition, Pluckk aimed to establish itself as a key player in the DIY meal kit market by combining its expertise in fresh food with KOOK's strong target audience and meal kit expertise.

## Reliance Consumer Products enters into key transactions in the FMCG sector

Reliance Consumer Products Ltd ("RCPL") has entered into several key transactions in the FMCG sector. Some notable deals are highlighted below:

33. [http://timesofindia.indiatimes.com/articleshow/97439291.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/97439291.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)
34. <https://www.thehindubusinessline.com/economy/agri-business/food-conclave-2023-telangana-bags-7218-cr-investment-in-food-processing-aqua-edible-oil-sectors/article66792172.ece>;
35. <https://www.igmpiindia.org/igmpiblog/newsletter.php?news=2807>
36. <https://www.hul.co.in/news/press-releases/2022/hul-makes-strategic-investments-in-oziva-and-wellbeing-nutrition/>
37. <https://www.hul.co.in/files/e877e418-e937-4df1-b972-0fe0d75300fa/update-on-acquisition-of-shares-of-nutritionalab-private-limited-edpkl.pdf>; <https://www.hul.co.in/news/press-releases/2022/hul-makes-strategic-investments-in-oziva-and-wellbeing-nutrition/>
38. <https://economictimes.indiatimes.com/industry/cons-products/food/ccl-acquires-six-coffee-brands-from-lofbergs-group/articleshow/100857541.cms?from=mdr>
39. <https://economictimes.indiatimes.com/tech/startups/food-tech-startup-pluckk-acquires-100-stake-in-meal-kit-brand-kook/articleshow/99930392.cms>; <https://www.livemint.com/companies/start-ups/pluckk-acquires-indian-food-tech-startup-kook-to-enter-diy-meal-kit-market-11683043434333.html>

- i. RCPL entered into a strategic partnership with Ceylon Beverage International Private Limited ("**Ceylon**"),<sup>40</sup> one of the largest beverage can and filling companies in Sri Lanka. The aim of the partnership is to co-pack and manufacture 'Campa' brand soft drinks cans for distribution in Indian markets. The partnership is in furtherance of RCPL's aim of providing competition to brands such as 'Coca-Cola' and 'Pepsi' in the Indian beverage market, as it attempts to ramp up Campa's presence nationally.
- ii. RCPL announced the acquisition of 50% equity shareholding of Gujarat-headquartered beverages company Sosyo Hajoori Beverages Private Limited,<sup>41</sup> a leading company in the Gujarat soft drinks market operating under the brand name 'Sosyo'. This is in line with RCPL's strategy of promoting and scaling home-grown consumer brands and products that offer superior value.
- iii. RCPL acquired shares of Lotus Chocolate Company Limited ("**Lotus Chocolate**")<sup>42</sup> from the promoters of Lotus Chocolate for a consideration of approximately INR 74 crores. Pursuant to the acquisition, RCPL became the promoter of Lotus Chocolate with sole control in accordance with the Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**SEBI (SAST) Regulations**"). RCPL also agreed to additionally invest into non-convertible, non-cumulative redeemable preference shares of Lotus Chocolate. Subsequently, RCPL alongside Reliance Retail Ventures Limited in its capacity as a person acting in concert ("**PAC**") made an open offer dated March 14, 2023 to the public shareholders of Lotus Chocolate to acquire up to 26% of the voting capital<sup>43</sup> of Lotus Chocolate in accordance with the SEBI (SAST) Regulations. Pursuant to the post-offer advertisement<sup>44</sup> published in accordance with the SEBI (SAST) Regulations, RCPL and the PAC cumulatively hold 51% equity in Lotus Chocolate. The investment by RCPL is aimed at expanding Lotus Chocolates into a 'comprehensive confectionery, cocoa, chocolate derivatives and related products manufacturer across industrial and consumer market spectrum backed by manufacturing, best-in-class processes and people'.
- iv. RCPL entered into a strategic partnership with Sri Lanka headquartered Maliban Biscuit Manufactories (Private) Limited ("**Maliban**").<sup>45</sup> Maliban is a pioneering biscuit manufacturer, producing biscuits, crackers, cookies and wafers, exporting its products to over 35 countries. With this partnership, RCPL aims to introduce 'globally recognised consumer brands' in India.
- v. RCPL acquired the fusion beverages startup VSA Health and Wellness Private Limited which owns the 'Raskik' brand ("**Raskik**") for an undisclosed amount.<sup>46</sup> Raskik was started in 2019 by Mr. Vikas Chawla, former managing director of Coca-Cola, the south-east Europe division. Raskik is engaged in selling natural fusion beverages across multiple channels including online, general trade and local chains. With this acquisition, RCPL aims to strengthen its foothold in the FMCG sector.
- vi. RCPL acquired Sweet Confectionery Private Limited which owns the 'Toffeeman' for an undisclosed amount ("**Toffeeman**").<sup>47</sup> Toffeeman was established in 1983 and has the largest confectionery manufacturing unit in Maharashtra. This acquisition will aid RCPL in establishing itself as a competitor to the ITC group 'Candyman' brand, which is engaged in selling candies.

## Wipro Consumer Care and Lighting acquires Kerala-based Brahmins Foods<sup>48</sup>

Wipro Consumer Care and Lighting, part of Wipro Enterprises Private Limited ("**Wipro**") acquired Brahmins Foods India Private Limited, a Kerala-based spice mix and ready-to-eat packaged foods company, with

40. <https://economictimes.indiatimes.com/industry/cons-products/food/reliance-consumer-ties-up-with-ceylon-beverage-for-campa/articleshow/99894568.cms>;

41. <https://www.outlookindia.com/business/reliance-consumer-products-acquires-50-stake-in-beverage-maker-sosyo-hajoori-beverages-news-250870>; <https://www.financialexpress.com/industry/reliance-arm-to-relaunch-sosyo-beverages-in-gujarat/3041571/>

42. [https://www.business-standard.com/article/news-cm/reliance-retail-arm-acquires-51-stake-in-lotus-chocolate-for-rs-74-cr-122123000220\\_1.html](https://www.business-standard.com/article/news-cm/reliance-retail-arm-acquires-51-stake-in-lotus-chocolate-for-rs-74-cr-122123000220_1.html)

43. Voting Capital refers to the equity share capital of Lotus Chocolate as expected on the 10th (tenth) Working Day from the closure of the Tendering Period for the Offer, Definitions, Letter of Offer, March 08, 2023 [https://www.sebi.gov.in/sebi\\_data/commndocs/mar-2023/Lotus\\_Chocolate\\_LOF\\_p.pdf](https://www.sebi.gov.in/sebi_data/commndocs/mar-2023/Lotus_Chocolate_LOF_p.pdf)

44. [https://www.sebi.gov.in/sebi\\_data/commndocs/apr-2023/Lotus\\_Chocolate\\_POA\\_p.pdf](https://www.sebi.gov.in/sebi_data/commndocs/apr-2023/Lotus_Chocolate_POA_p.pdf)

45. <https://economictimes.indiatimes.com/industry/cons-products/food/reliance-to-bring-sri-lankas-malhan-biscuit-into-india/articleshow/97490370.cms?from=mdr>

46. <https://www.livemint.com/companies/news/reliances-fmcm-arm-rcpl-acquires-raskik-and-toffeeman-adding-to-its-fast-moving-consumer-goods-portfolio-as-reliance-retail-adds-over-3-300-new-stores-in-fy23-11682101184682.html>

47. <https://www.outlookindia.com/business/reliance-retail-enters-into-partnership-with-maliban-acquires-raskik-and-toffeeman-news-280405>

48. <https://startup.outlookindia.com/sector/e-commerce/wipro-expands-into-packaged-food-market-with-acquisition-of-brahmins-news-8191>; <https://timesofindia.indiatimes.com/city/bengaluru/fmcm-co-wipro-consumer-care-buys-brahmins-in-all-cash-deal/articleshow/99654193.cms?from=mdr>

the aim of bolstering its presence in the packaged foods business. This acquisition builds on Wipro's purchase of the 'Nirapara' brand last year and is the 14<sup>th</sup> acquisition by the FMCG arm of Wipro. With the Indian packaged food market experiencing a shift as middle-class households switch from unbranded to branded food items, Wipro seeks to expand beyond its traditional home and personal care offerings.

### Dabur acquires Badshah Masala<sup>49</sup>

Dabur India Ltd ("**Dabur**") acquired a 51% stake in Badshah Masala Private Limited ("**Badshah Masala**"), a leading manufacturer, marketer and exporter of ground spices, blended spices and seasonings, for a cash consideration of approximately INR 587 crores, less proportionate debt as on the closing date. With this acquisition, Badshah Masala has become a subsidiary of Dabur as on January 02, 2023. The acquisition is in furtherance of Dabur's aim to enter the branded spices market in India and thereby expand its food business to INR 500 crores in the subsequent 3 years.

### Cookr secures USD 1 million in pre-seed funding<sup>50</sup>

Cloudify Technologies Private Limited, a home food tech marketplace start-up, secured USD 1 million as a pre-seed investment from a diverse group of angel investors. The funding will be used to add more features to the platform, expand the team and launch the marketplace across India which is currently operational in 9 cities.

### ITC to acquire 100% stake in Yoga Bar<sup>51</sup>

On January 17, 2023, ITC announced it had signed a binding term sheet to acquire 100% equity stake in Sproutlife Foods Private Limited ("**SPFL**"), a direct-to-consumer start-up which owns the clean, new-age brand 'Yoga Bar'. This acquisition will span over 3 to 4 years. ITC currently owns 39.42% of the shareholding of SPFL for a total consideration of INR 175 crores. With this acquisition, ITC is fortifying its presence in the FMCG sector.

49. <https://www.dabur.com/press-releases/dabur-acquires-majority-stake-badshah-masala-ground-spices-blended-spices-company>

50. <https://www.thehindu.com/news/national/tamil-nadu/tn-home-food-tech-startup-cookr-secures-usd-1-million-in-pre-seed-round/article66511449.ece>

51. <https://www.itcportal.com/media-centre/press-releases-content.aspx?id=2544&type=C&news=itc-to-acquire-yoga-bar-fortifying-its-nutrition-led-healthy-foods-portfolio>



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