

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 - IN THE MATTER OF KAILASH AUTO FINANCE LIMITED

In respect of:

Sl. No.	Noticee	PAN
Primary allottees of CPAL and PML		
1	Solty Dealtrade Pvt. Ltd.	AAPCS2058G
2	Needful Projects Advisory Pvt. Ltd.	AADCN4461C
3	Timeless Suppliers Pvt .Ltd.	AADCT6337P
	Entities at Sl. No. 1 – 3, hereinafter, collectively referred to as “ <i>primary allottees of CPAL and PML</i> ” or individually by their respective names.	
Kailash Auto Group II		
4	Signature Dealtrade Pvt. Ltd.	AAOCS9059G
LTP Contributor/Others		
5	Bharat Bagri HUF	AADHB8488A
Beneficiaries		
6	Anshu Agarwal	ABYPA0389D
7	Divesh Kumar Agarwal	AEBPA2498H
8	Dhiraj Kumar Khetan	AAWPK2634C
9	Vikrant Kumar Khetan	AAWPK2621F
10	Mahesh Kumar Khetan	AAWPK2620E
11	Gobinda Chandra Pattanaik	AJEPP2669K
12	Manju Rathi	AECPR9207C
13	Prakash Chandra Rathi	AECPR9208P
14	Gaurav Goel	ADYPG0561H
15	Gautam Goel	ADYPG0564C
16	Hitesh Ramprakash Chhatwal	ADSPC4388E
17	Sweety Manglani	AGAPM6677R
18	Lakshmi Devi	AADPD8227B
19	Aashish Kumar Lalwani	ACLPL9914H
20	Saurabh Mittal	ADDPM5232A
21	Kapil Mittal	ADDPM5233B
22	Rajesh Ramswarup Sarda HUF	AADHS2286M

23	Veena Rajesh Sarda	AHAPS4880R
24	Chandadevi Ramswarup Sarda	AHAPS4924L
25	Rajesh Ramswarup Sarda	AHAPS4925M
26	Ramasamy Santhamani	ALJPS3141G
27	OmPrakash Agrawa lHuf	AAAHO5501J
28	Omprakash Agrawal	ACIPA3823H
29	Rahul Agrawal	AEXPA9696R
30	Vikas Agrawal	AFBPA9883M
31	Shilpa Agrawal	AHQPK3316G
32	Nikita Agrawal	AOTPA7379H
33	Ashish Singhania	BFWPS0721Q
34	Pratapsinh Ganpatrao Jadhav	AAYPJ1003C
35	Charanjeet Singh	ADWPS5227Q
36	Geetha Jain	ADEPG7030K
37	Abhishek Agarwal	AFTPA0939C
38	Sangeeta Sachdev	AODPS3657L
39	Dilipkumar S Jain	AFEPJ8660G
40	SherSingh Agarwal HUF	AAAHS9623K
41	Dinesh Shersingh Agarwal	AAAPA5629D
42	Shersingh Agarwal	AADPA3198C
43	Dharam Paul	ACGPP5575P
44	Neeraj Kumar	AGVPK7036P
45	Satish Jain	AAFPJ6142B
46	Sandhya Jain	AAGPJ0189B
47	Sunil Kumar Jain	AAHPJ7196B
48	Sarda/ Ghanshyam Sarda HUF	AAEHS0587A
49	Uma Sarda	AKBPS4386G
50	Rajendra Neminath Shete	AACHR9687J
51	Nilavati Niminath Shete	ACZPS8442H
52	Manisha Rajendra Shete	ACZPS8514N
53	Rajendra Neminath Shete	ACZPS8515P
54	Niranjan Rajendra Shete	BOTPS0314D
	Entities at Sl. No. 06 to 54 , hereinafter, collectively referred to as “ beneficiaries ” or individually by their respective names.	
The aforesaid entities at Sl. No. 1 to 54 , hereinafter, referred to by their respective names or by their respective categories or collectively as “ the noticees ”.		

1. Securities and Exchange Board of India (SEBI) vide an *ad-interim ex-parte order* dated March 29, 2016 (hereinafter referred to as the “*interim order*”), restrained the Company namely

Kailash Auto Finance Limited (hereinafter referred to as "*Kailash Auto*") and 245 other entities including the noticees, from accessing the securities market and further prohibited them from buying, selling or dealing in securities, either directly or indirectly, in any manner, whatsoever, till further directions. The persons/ entities against whom the *interim order* was passed, were advised to file their objections, if any, within twenty one days from the date of the *interim order* and, if they so desire, to avail themselves of an opportunity of personal hearing before SEBI.

2. The *interim order* was passed taking into account the facts and circumstances described therein, which are, *inter alia*, summarised as under:-

- a) During the Financial Year (FY) 2010-11, Careful Projects Advisory Ltd. (hereinafter referred to as "*CPAL*") and Panchshul Marketing Ltd. (hereinafter referred to as "*PML*") were incorporated with a dubious plan and premeditated arrangement and artifice to increase the number of equity shares therein through sham and non-genuine transactions with regard to issuance of their shares which resulted in fetching exorbitant and unrealistic consideration in the scheme of amalgamation with *Kailash Auto*. Pursuant to amalgamation, 2058 shareholders of *PML* and 1,972 shareholders of *CPAL* (hereinafter referred to as "*beneficiaries*") received 58,59,10,800 shares of *Kailash Auto* in the form of consideration.
- b) Subsequent to acquisition of management and control of *Kailash Auto* by *CPAL* and *PML*, the price of *Kailash Auto* was rigged by 230%, from January 17, 2013 to June 04, 2013 (Patch- 1). During Patch - 1, the scrip was an illiquid one and there was negligible trading therein at that time. During this period the price was manipulated by the connected parties who traded under pre-meditated plan. During July 22, 2013 to November 05, 2014 (Patch-2), average trading volume increased by 5577 times, as compared to Patch - 1. During Patch - 2, the *beneficiaries* were net sellers and the entities forming part of *Kailash Auto Group I* and *Kailash Auto Group II* (as defined in the *interim order*) were net buyers. The high trading volumes were contributed by *Kailash Auto Group I* and *Kailash Auto Group II*, acting as net buyers to the *beneficiaries'* sale. Entities of *Kailash Auto Group I* and *Kailash Auto Group II* who have provided exit to these *beneficiaries* were *prima facie* connected to each other. In the process, *beneficiaries* made huge profits of approximately 3400% on their investment, in a period of 12 months or more and claimed the exemption of long term capital gains (LTCG) on such profits. During November 07, 2014 to December 31, 2015 (Patch – 3), the downward trend in the trading volume and price of the scrip of *Kailash Auto* was observed to be on account of the trades of the *beneficiaries* who were exiting from the market.
- c) Purported consideration for transfer of equity shares of *CPAL* and *PML* by the recipients of *CPAL shares* and recipients of *PML shares* (as defined in the *interim order*), was

paid by the *beneficiaries* and the same was transferred, directly or through multiple layering, by *recipients of CPAL shares* and *recipients of PML shares* to the entities belonging to *Kailash Auto Group I* and *Kailash Auto Group II* or entities controlled by *CPAL/PML*.

- d) Entities of *Kailash Auto Group I* and *Kailash Auto Group II* were being funded by different sources including the current promoter group of *Kailash Auto*, to buy shares of *Kailash Auto* from the *beneficiaries* and to provide exit to them from the market. *Kailash Auto Group I* and *Kailash Auto Group II* had received the funds *via* multiple layering/ transfer of funds so as to mask the true identity of the ultimate owner of the funds.
- e) The key financial figures/ratios of *Kailash Auto* was unfavourable and well below the industry standards. Operating Revenue and Operating Expenditure of *Kailash Auto* depicts very poor or no operations were being carried out by *Kailash Auto*. *Kailash Auto* has continuously reported negative or no profit. Further, Earning Per Share (EPS) of *Kailash Auto* was nil or negative and the value of the scrip was highly inflated with respect to its book value. Considering the financial and operating figures of *Kailash Auto*, the huge market capital of *Kailash Auto* and price/ traded volumes in the scrip during the relevant periods is found to be inflated and unrealistic.
- f) It was *inter alia* noted that:-
 - (i) By making the private placement to the *primary allottees of CPAL and PML* on March 31, 2011, *CPAL* and *PML* had purportedly raised share premium of ₹19,47,91,450/- and ₹23,24,61,000/-, respectively. This share premium was raised through the circulation of funds as mentioned hereinabove. Further, *CPAL* and *PML* had issued bonus shares by using this fictitious share premium. The issue of bonus shares by *CPAL* and *PML* resulted in significant increase in the paid up share capital of *CPAL* and *PML*.
 - (ii) As a result of the schemes of, reduction in share capital of *Kailash Auto* and amalgamation of *CPAL* and *PML* with *Kailash Auto*, the market capital of *Kailash Auto* increased from ₹10,48,52,545/- on May 10, 2013 (consisting of 38,05,900 equity shares of ₹27.55/- each), to ₹21,72,12,23,071/- on July 22, 2013 (consisting of 58,70,60,083 equity shares of ₹37/- each). Consequent to these schemes, the market capital of *Kailash Auto* increased by 20615.97%, i.e., approximately 206 times.
 - (iii) The *beneficiaries* had received the shares of *CPAL* and *PML* at an average price of ₹1/- per share. Pursuant to the scheme of amalgamation, for every one equity share held by the shareholders of *CPAL* and *PML* (*beneficiaries*), one equity share of *Kailash Auto* was allotted to them. These *beneficiaries* off-loaded such shares of *Kailash Auto* (after the period of shareholding for such shares was 12 months or more) at an

average price of ₹35/-, which was artificially increased on the platform of the stock exchange, and in the process made huge profits of approximately 3400% on their investment, in a period of 12 months or more.

g) Following *modus operandi* was observed in the matter:

- (i) *CPAL* and *PML* were incorporated with a dubious plan and premeditated arrangement and artifice to increase number of shares of *CPAL* and *PML* through sham and non-genuine transactions with regard to private placements at huge premium and issuance of bonus shares at unrealistic ratio of 1:55 and 1:66 to the connected/ related entities.
 - (ii) These connected/ related entities transferred shares of *CPAL* and *PML* to large number of *beneficiaries* at ₹1/- per share.
 - (iii) Prior to amalgamation, the price of the scrip of listed company had increased on market platform from ₹11/- to ₹36.25/ in 36 trading days.
 - (iv) Pursuant to amalgamation, for every one equity share held by the shareholders of *CPAL* and *PML* (*beneficiaries*), one equity share of *Kailash Auto* was allotted to them. Further, the *beneficiaries* had sold the shares to the entities of *Kailash Auto Group I* and *Kailash Auto Group II*, and thereby made huge profits.
- h) Thus, it was, *prima facie*, observed that such profits were generated on account of the rigged price of the scrip and creation of artificially inflated volumes. Thus, the details of transactions put through in such a ruse contain the tell-tale story of how the entire process of private placement, fabrication of share premium, issuance of bonus shares, subsequent transfer of shares and funds to connected/ related entities was designed and structured on the building blocks of a slew of transfers and retransfers to beguile the same as transactions with commercial sense to generate bogus LTCG which is exempt from tax under the provisions of the Income Tax Act, 1961. During this process, the stock exchange system was grossly misused.

3. The allegations against the noticees, as mentioned in the *interim orders* are that, acts and omissions of the *noticees* are ‘*fraudulent*’, as defined under regulation 2(1)(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”) and are in contravention of the provisions of Regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(a), (b), (e) and (g) of PFUTP Regulations and Section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “SEBI Act”). Such allegations against the noticees were made on the basis of the following:

- a) *Primary allottees of CPAL and PML*, are the set of entities who received private placement from *CPAL* and *PML* of face value ₹10/- each at at huge premium of ₹590/- and ₹690/- respectively. Further these entities designed a mechanism, by virtue

of which, only circulation of fund was done and no actual payment was made as regards the subscription of equity shares of *CPAL* and *PML*. Also the shares of *CPAL* and *PML* were transferred by these entites to *recipients of CPAL shares* and *recipients of PML shares* within shortspan of time. Thus the share premium was raised through the circulation of funds and same was used to issue bonus shares by *CPAL* and *PML*. Therefore *primary allottees of CPAL and PML*, assisted *CPAL* and *PML* to increase their share capital and increase the number of equity shares without infusing any amount of cash as presented in the paragraph 5(t) of the *interim order*. Thus, the *primary allottees of CPAL and PML* were used as a tool for implementation of the dubious plan, device and artifice.

- b) *Kailash Auto Group I and Kailash Auto Group II* are the entities who acted as buyers to the *beneficiaries* and provided them exit in the market. KYC of these entities prima facie depict that their income level was below ₹1 lakhs, however, they traded worth crores of rupees, in the scrip of *Kailash Auto*. From the bank statements, it was noted they were receiving huge amounts of funds on daily basis and the same were used to provide exit to the *beneficiaries*. Promoter group of *Kailash Auto* and connected promoter group have also provided huge funds to these entities to provide exit to the *beneficiaries*. Hence, the trading pattern of the entites of *Kailash Auto Group I and Kailash Auto Group II* does not commensurate with the income disclosed in their KYC. Further these entities are acting as exit providers to the *beneficiaries* and creating artificial traded volume. By executing the trades these entities supported the malafide intent of dubious plan and scheme to create LTCG by *beneficiaries*.
- c) Prior to the amalgamation it was noted that the price of the shares of *Kailash Auto* were rigged by top LTP contributors from ₹11 to ₹36.25 mainly through first trades, on 27 instances, acting in league with connected counter parties under a pre-meditated plan, device and artifice. Further top 2 entities have rigged price by 56.58%, by placing order continuously at higher price. Also counter parties to such trades were mostly related to *PML* or *CPAL*.
- d) *Beneficiaries* are the set of entities who invested in shares of *CPAL* and *PML* at ₹1/ share. After amalgamation, they received shares of *Kailash Auto* in lieu of the shares of *CPAL* and *PML*, thus cost of acquisition for shares of *Kailash Auto* being ₹1 and sold the shares of *Kailash Auto* to the *Kailash Auto Group I and Kailash Auto Group II* at high price of around ₹35/- per share and availed the exemption of LTCG. *Beneficiaries* have transferred their fund to *recipients of PML and CPAL shares*, at the time of buying shares of *CPAL* and *PML* and received back the money while selling shares of *Kailash Auto* to *Kailash Auto Group I and Kailash Auto Group II* as presented in Paragraph 17 of the *interim order*.

4. Pursuant to the *interim orders*, majority of the noticees had filed their replies on different dates. During the course of proceedings, information/ documents which were relied upon by SEBI for passing the *interim order* were provided to the noticees, who had requested for the same. Thereafter, opportunities of personal hearings were granted to the noticees on various dates. Out of such noticees, certain persons/ entities had attended the personal hearing, while some other had sought exemption and a few had failed to appear for the personal hearings. The additional written submissions, if any, submitted by such noticees pursuant to the personal hearings were also taken on record.
5. I also deem it appropriate to highlight here the approximate figures of the profit/ gain earned by the *beneficiaries* in respect of the allegation in the *interim order*, as tabulated below:

Table 1: Profit/ Gains earned by the *Beneficiaries*

Sr. No.	Name	Profit earned on the sale of shares (₹)
1.	Anshu Agarwal	1,98,80,000
2.	Divesh Kumar Agarwal	1,85,00,000
3.	Dhiraj kumar Khetan	5,94,83,141
4.	Vikrant Kumar Khetan	6,02,43,384
5.	Mahesh Kumar Khetan	3,02,23,800
6.	Gobinda Chandra Pattanaik	1,91,72,083
7.	Manju Rathi	1,92,87,935
8.	Prakash Chandra Rathi	1,90,34,565
9.	Gaurav Goel	1,85,43,175
10.	Gautam Goel	1,84,80,637
11.	Hitesh Ramprakash Chhatwal	18,64,64,200
12.	Sweety Manglani	2,66,30,600
13.	Lakshmi Devi	2,22,72,500
14.	Aashish Kumar Lalwani	2,20,64,750
15.	Saurabh Mittal	2,60,45,750
16.	Kapil Mittal	2,63,19,000
17.	Rajesh Ramswarup Sarda HUF	6,51,77,750
18.	Veena Rajesh Sarda	6,92,21,000

19.	Chandadevi Ramswarup Sarda	3,43,59,750
20.	Rajesh Ramswarup Sarda	9,82,25,051
21.	Ramasamy Santhamani	7,55,02,950
22.	OmPrakash Agrawa IHuf	9,19,54,707
23.	Omprakash Agrawal	11,67,03,999
24.	Rahul Agrawal	20,17,22,178
25.	Vikas Agrawal	17,67,24,215
26.	Shilpa Agrawal	7,03,26,361
27.	Nikita Agrawal	3,90,60,520
28.	Ashish Singhania	2,88,47,376
29.	Pratapsinh Ganpatrao Jadhav	1,33,01,329
30.	Charanjeet Singh	9,23,57,006
31.	Geetha Jain	7,37,42,060
32.	Abhishek Agarwal	1,89,72,350
33.	Sangeeta Sachdev	2,31,80,000
34.	Dilipkumar S Jain	1,86,45,080
35.	SherSingh Agarwal HUF	1,47,86,500
36.	Dinesh Shersingh Agarwal	1,86,18,467
37.	Shersingh Agarwal	1,80,00,515
38.	Dharam Paul	10,30,53,100
39.	Neeraj Kumar	10,19,96,451
40.	Satish Jain	6,92,78,926
41.	Sandhya Jain	2,32,46,342
42.	Sunil Kumar Jain	2,16,78,250
43.	Sarda/ Ghanshyam Sarda HUF	1,98,40,850
44.	Uma Sarda	1,88,27,700
45.	Rajendra Neminath Shete	1,80,83,661
46.	Nilavati Niminath Shete	1,77,78,699

47.	Manisha Rajendra Shete	1,78,72,481
48.	Rajendra Neminath Shete	1,80,81,442
49.	Niranjan Rajendra Shete	1,78,79,990

6. I note that the *interim order* has highlighted the fact that the *Kailash Auto Group I and Kailash Auto Group II*/ exit providers had purchased most of the shares sold by the *beneficiaries*. One of the noticee, forming part of *Kailash Auto Group II*, viz. Signature Dealtrade Private Limited had purchased 22,97,100 shares of *Kailash Auto*.
7. In view of the above, out of total 246 entities against whom the interim directions were imposed vide the *interim order* dated March 29, 2016 in the matter, the confirmatory orders have been passed in respect of 131 entities. It is noted that the proceedings for passing of appropriate order pending investigation in the matter are now complete and the order in the matter *qua* 54 noticees herein needs to be issued considering their replies/ submissions and relevant material available on record. While proceeding further, now I consider the respective replies/ submissions of the noticees (according to the respective group), the same in brief, are as under:

I. Primary allottees of CPAL and PML:

A. Solty Dealtrade Pvt. Ltd. (None appeared)

- (i) They traded in various scrips, in quoted, unquoted shares and in both primary and secondary markets.
- (ii) They undertake the activity of trading in shares with an intention to identify companies that have a growth potential, and invest in the same, with a view to gain profits.
- (iii) They denied the allegations made against them. They had been made part of the alleged *Primary Allottees* of *CPAL* and *PML*. They were allotted 15,830 equity shares on 31.03.2011 of *CPAL* against their application to the *CPAL*. Then they sold these shares before any corporate action done in the *CPAL* or even in *Kailash Auto*. They were never involved in any transaction with *Kailash Auto* and never had any transaction in shares of *Kailash Auto*.
- (iv) They denied that they were part of any scheme, plan, device and/ or artifice employed either in a SEBI case, or any other case of tax evasion. They denied that they had carried out manipulative transactions in securities or have misused the securities market. They denied that the above act is fraudulent and they have violated provisions of SEBI Act or SEBI (PFUTP) Regulations
- (v) The said *interim order* was passed without seeking any explanation which is in violation of principles of natural justice, equity and fair play and has tarnished their

reputation. Nothing stated in the said *interim order* shall be deemed to be admitted by them merely on account of non-traverse.

- (vi) The direction to restrain from accessing securities market and buying, selling or dealing in securities for the said alleged act of them is grossly harsh, disproportionate and excessive in the facts of the instant case without prejudice to the above.
- (vii) Since they are not allowed to access securities market at present, their investments in securities to the tune of ₹3.62 crores approx has been blocked in their demat account.
- (viii) Further, they prayed as follows:-
 - (a). allow to access securities market and buy, sell or deal in securities;
 - (b). an order lifting the directions issued under *ad-interim ex-parte order* may be passed so that their reputation is restored; and
 - (c). their reply may be taken on record and may be exempted from attending the personal hearing.

B. Needful Projects Advisory Pvt. Ltd (None appeared)

- (i) They invest the surplus funds in both quoted and unquoted shares, and the investment done in *CPAL* was a part of this.
- (ii) They undertake the activity of trading in shares with an intention to identify companies that have a growth potential, and invest in the same, with a view to gain profits, either in terms of capital profits, or revenue profits.
- (iii) They had been made part of the alleged *Primary Allottees of CPAL and PML*. They were allotted 40,500 equity shares on 31.03.2011 of *CPAL* against their application to *CPAL*.
- (iv) They sold these shares within few months of their acquisition and had no nexus with the *CPAL* or *Kailash Auto* thereafter. They were never involved in any transaction with *Kailash Auto* and never had any transaction in shares of *Kailash Auto*.
- (v) They denied the allegations made against them. Nothing stated in the said order shall be deemed to be admitted by them merely on account of non traverse. They stated that all the contentions in this reply are without prejudice to each other. They denied that they were part of any scheme, plan, device and/or artifice employed either in a SEBI case, or any other case of tax evasion. They denied that they had carried out manipulative transactions in securities and further that they have misused the securities market. They further denied having violated any of the provisions of the PFUTP Regulations or provisions of the SEBI Act.
- (vi) The direction to restraining them from accessing securities market and buying, selling or dealing in Securities, either directly or indirectly for the said alleged act is grossly harsh, disproportionate and excessive in the facts of the instant case without prejudice to the above. The *interim order* is in violation of principles of

natural justice, equity and fair play and the said *interim order* has tarnished their reputation.

- (vii) Since they are not allowed to access securities market at present and they are not able to trade/ invest in any manner, so they prayed as follows:-
- (a). allow access to securities market and buy, sell or deal in securities;
 - (b). an order lifting the directions issued under *interim order* may be passed on an urgent basis so that their reputation is restored; and
 - (c). their reply may be taken on record and may be exempted from attending the personal hearing.

C. Timeless Supplier Pvt. Ltd. (None appeared):

- (i) They denied all the allegations made against them in the *interim order*.
- (ii) They were not provided any opportunity of being heard, thus the *interim order* was against the principle of natural justice.
- (iii) They denied any connection or relation with *Kailas Auto* and/ or its directors/ promoters, directly or indirectly. They denied that they were ever a part of any scheme, plan, device and/ or artifice employed in a SEBI case, and also or any other case of tax evasion. They further denied having violated any of the provisions of PFUTP Regulations or provisions of SEBI Act.
- (iv) They prayed to permit them to buy/ sell or trade in securities market and relieve from the directions issued under the order.
- (v) They also stated that they frequently trade in securities market and do invest their surplus funds as and when available, trading in shares of *Kailas Auto* was only part of their normal trading activities and they did not have any intention to misuse the stock exchange system.

II. Kailash Auto Group II:

A. Signature Deal Trade Pvt. Ltd. (None appeared):

- (i) They denied all the allegations made against them in the said *interim order*.
- (ii) They were not provided any opportunity of being heard, thus the order was against the principle of natural justice.
- (iii) They denied any connection or relation with *Kailas Auto* and/ or its directors/ promoters directly or indirectly. They denied that they were ever a part of any scheme, plan, device and/ or artifice employed in a SEBI case, and also or any other case of tax evasion. They further denied having violated any of the provisions of the PFUTP Regulations or provisions of the SEBI Act.
- (iv) They prayed to permit them to buy/ sell or trade in securities market and relieve from the directions issued under the order.
- (v) They also stated that they frequently trade in securities market and do invest their surplus funds as and when available, trading in shares of *Kailas Auto* was only part

of their normal trading activities and they did not have any intention to misuse the stock exchange system.

III. LTP Contributor/ Others:

A. Bharat Bagri HUF (Represented by Mr. Uttam Bagri):

- (i) They buy and sell securities as part of their securities trading business. The decision to buy and sell securities is solely with the purpose of making short term trading profit with no manipulative intent. All trading decisions are taken on the basis of publicly available data and on an individual basis.
- (ii) One of their strategies is to purchase securities on 'T' day where they are locked at upper circuit on 'T-1' day where there are large number of buyers and very few sellers. They have traded in hundreds of securities as a part of their strategy. It is part of their own strategy and has nothing to do with any other entity/ person. The decision was purely a technical decision based on a demand and supply in the momentum style of trading and there was no study of the fundamentals of the company.
- (iii) They had entered in to trades of buy side only for those securities, which had already hit upper circuits in previous trading day and have not contributed to any increase in price of any scrip. In all the instances, there were many other buyers at the upper circuit rates and hence the absence of order in the system would have led to the same price discovery. Further, there is an average gap of a week between two trades. Thus, the presence or absence of their order had no implication on the price movement of the scrip which continued to hit upper circuits continuously.
- (iv) In the exchange matching system, participants place orders. Trade is a function of the counterparty order rate and size. In this case, his order size was always significant. However, the reason for the low trade size was that the counterparty seller(s) seemed to have sold extremely low quantities every day and because of this he had to repeat the orders continuously to get the desired stock. The behaviour of the seller who was selling such small quantity of shares seems suspicious and the same requires further investigation.
- (v) A large numbers of other buyers on the screen to purchase the securities enticed him to enter purchase order. They have proactively declared out their trading strategy style to the Exchanges and the Regulators in the past.
- (vi) In March 2013, they had purchased 500 shares worth around ₹ 8,500/- out of their own funds through five instances of trades. The shares were sold in May, 2013 for around ₹ 20,000/-. They had earned as meagre profit of around ₹ 11,500/-. The same is trading income and no capital gains, either short term or long term has been claimed on the same.
- (vii) They placed the buy order seeing huge demand as on previous trading as against thinly traded volume and purchase quantity was always far less than the traded

volume (order placed on T day) based on publicly available information on order book/ trade book position of T-1 day.

- (viii) Of the eight instances where they attempted to purchase the security, only five resulted in trades. Furthermore, in spite of them placing orders to purchase around 400 to 1900 shares at various points of time, only 100 shares could be purchased on each occasion leading to the balance order quantity being unfulfilled.
- (ix) They are not connected/ related to the Kailash Auto or its promoters or directors or with any entities mentioned in the interim order. They did not foresee any manipulation. They are not a party to any other scheme in question.

IV. Beneficiaries:

A. Anshu Agarwal and Divesh Kumar Agarwal (Represented by Mr. Divesh Kumar Agarwal, Mr. KRCV Seshachalam)

- (i) They had purchased 5,00,000 shares each of an unlisted company *CPAL* on 25th March 2012 from Sanskrit Vincom Pvt. Ltd. *CPAL* merged with *Kailash Auto* and they were allotted the shares of *Kailash Auto*. They had taken an investment decision to buy 500000 shares each from Sanskrit Vincom Pvt. Ltd. on the basis of information provided by the vendor.
- (ii) They bought the shares of *CPAL* from their own sources of funds. They had sold the shares of *Kailash Auto*, after holding them for a period of more than one year, during the period as under:
 - (a). Divesh Agarwal [06.08.2013] to [16.09.2013] at an average price of ₹38.00/-.
 - (b). Anshu Agarwal from 07.03.2014 to 25.03.2014 at an average price of ₹40.76/-
- (iii) The proceeds of sale of shares had been utilized for genuine business purposes. They had not indulged in any layering of funds, circulation of funds and/or securities, for acquisition and divestment of securities of connected unlisted private companies and corporate actions including capital reduction, issuance of bonus shares, private placement and merger of such companies with *Kailash Auto*.
- (iv) They were not aware of *CPAL* acquiring control over *Kailash Auto* as alleged in the Order. There was no corporate communication from *CPAL* regarding the said alleged acquisition of the control, this fact was not known to them at the relevant time. Mere fact that *CPAL* acquired control over *Kailash Auto* in the year 2012 had no bearing on their acquiring the shares of *CPAL* and consequent selling of *Kailash Auto*. They acquired the shares of *CPAL* from Sanskrit Vincom Pvt. Ltd. They were not aware as to when and how Sanskrit Vincom had acquired the shares of the *CPAL*. The vendor through whom they purchased the shares was neither an allottee in preferential allotment nor in bonus shares issued by *CPAL*.
- (v) They were not aware of the bonus shares issued by *CPAL* since they purchased the shares after bonus issue. Further, they were not aware of the flow of funds and they were not concerned with the flow of funds allegedly between/ among the

primary allottees. They cannot be accused of creating fictitious share premium value in the books of *CPAL*.

- (vi) They did not belong to or colluded with promoter group or they had no relation with or colluded with exit providers, they were not part of or they were unaware of any scheme or contrivance or fraud while trading in securities or they had not used the system to convert black money into white money or they had not used the system to avoid long term capital gain.
- (vii) They denied having traded amongst connected entities, or involved in creation of artificial volume or contributed to the artificial price rise in the scrip. They were not aware as to who was the counterparty to their sales and hence they denied that the trades were happening between them and *Kailash Auto Group I and Kailash Auto Group II*.
- (viii) They denied they have acted in concert with *Kailash Auto Group I and Kailash Auto Group II* and misused the stock exchange system to generate fictitious LTCG so as to convert their unaccounted income into accounted one with no payment of taxes as LTCG is tax exempt. They denied that their transaction in any manner helped them to avoid payment of taxes and to show the source of this income to be from legitimate source. They did not employ any device, scheme or artifice to defraud in connection with issue or dealing in securities since they were only sellers in the market in an online anonymous trading system. They have not violated provisions of SEBI Act and SEBI (PFUTP) Regulations as alleged.
- (ix) They had requested that the interim order be vacated and permission be granted to sell the shares lying in their DP accounts.

B. Dheeraj Kumar Khetan , Mahesh Kumar Khetan and Vikrant Kumar Khetan (Represented by Dr. S.K Jain and Mr. Vikas Bengani):

- (i) The *interim order* is in gross violation of the principles of natural justice and has caused grave prejudice as no opportunity of hearing was granted to them before passing the said order. Also, it is in gross violation of their Fundamental Rights guaranteed by the Constitution of India under Article 14 which protects the Right of every citizen of India to equality before the law and the equal protection of law in as much as they were unfairly and unequally treated in the order whereas large numbers of entities which had also traded in the same scrip, i.e., *Kailash Auto* were favourably treated.
- (ii) The *interim order* does not reveal about their role or involvement and/or any nexus with any of the entities mentioned in the order except share purchases from Jatadhari Marketing Pvt. Ltd. Their involvement was not established in alleged layering of funds, circulation of funds and securities amongst inter-connected parties for acquisition and divestment of securities by all alleged connected unlisted private companies.

- (iii) They had not employed any device, scheme or artifice or engaged in any act or practice while dealing in the scrip of Kailash Auto nor were aware of any such fraudulent practice adopted by any of the alleged entities. However, the order passed by SEBI is extremely harsh, unjust and unfair.
- (iv) Vikrant Kumar Khetan and Dheeraj Kumar Khetan purchased 16,00,000 shares each and Mahesh Kumar Khetan purchased 8,00,000 shares of CPAL on December 5, 2011. They made full payment for purchase of these shares. Pursuant to scheme of amalgamation, the shares of Kailash Auto were credited to their demat account in the month of July 2013 against their shares held in CPAL. They started selling shares of Kailash Auto from August 20, 2013 and all the shares were sold in a period of about four and half months in a price range of ₹29 to ₹41. They had not generated any trading volume or contributed to the price rise, save and except that they had sold their own shares acquired in 2011.
- (v) They were unaware that the high trading volume was contributed by Kailash Auto Group I and Kailash Auto Group II as net buyers to the beneficiaries. They were unaware of the key financial figure/ ratio of Kailash Auto which was purportedly unfavourable and well below the industry standard.
- (vi) They were totally unaware that price of the scrip was rigged by top LTP contributors from ₹11 to ₹36.25. When they received shares of Kailash Auto pursuant to scheme of amalgamation, the price of the scrip was already quoting at about ₹37, hence they were not involved in any purported artificial increase in the price. Their trades in Kailash Auto had largely matched with entities other than the entities related/connected to Kailash Auto Group I and Kailash Auto Group II.
- (vii) They denied having indulged in any act, conduct, behaviour which connote a deceptive conduct, designed to deceive or defraud investors by controlling or artificially affecting the price of shares of Kailash Auto. They did not have any role and/ or involvement in manipulation in the traded volume and price of the scrip which had potential to further induce unsuspecting and gullible investors to trade in the scrip and harm them as alleged. They denied any role and/ or involvement in misusing the stock exchange system to generate bogus LTCG to convert any unaccounted income into accounted income. They had made bonafide investment in the scrip of CPAL and earned profit due to prudent investment decision.
- (viii) They refuted that their trades in the scrip of Kailash Auto were fraudulent, manipulative and deceptive under the PFUTP Regulations and provisions of the SEBI Act as alleged. They, therefore, requested to withdraw direction passed under Sections 11(1), 11 (4) and 11B of the SEBI Act restraining them from accessing market till further directions.

C. Gobinda Chandra Pattnaik (Represented by Mr.Gobinda Chandra Pattanaik, Mr. Durga Prasad Rath, Ms. Sashikala Rao and Ms. Shailashri

Bhaskar):

- (i) He was totally unaware of the stock market activities and had invested in only two stocks till date. He purchased 11,00,000 shares of *PML*, from Sivasakti Exports Limited at the price of ₹2/- per share on March 04, 2013 in an off market transactions as *PML* was an unlisted company. He invested from his own fund. He was not aware of any impending merger and purchased the share in the hope of getting good returns.
- (ii) He was informed that the company had been merged with *Kailash Auto* and the shares of same had been issued to him in exchange for the shares of *PML* on July 22, 2013. The same 11,00,000 shares were credited into his account maintained by Stock Holding Corporation of India Limited (SCHIL).
- (iii) He sold the shares from June 04, 2014 to March 27, 2015 on several days in small batches, as any investor would do when the share price increased. When he realized the share prices were falling to around ₹4 in March 2015, he sold the rest of his holding from March 25-27, 2015. 2,74,049 shares were sold at a price of Rs 4.43 per share and 2,80,000 shares were sold at an average price of ₹15. He had actually sold 90,000 shares at the price of ₹ 31 which was the highest price at which he sold the shares. He was one of those genuine investors who had invested in the scrip. He sold 3,92,000 shares out of his total holding of 11,00,000 shares from June 04, 2014 to November 03, 2014. He was one of the gullible investors who traded in the shares of *Kailash Auto*, having traded mostly during Patch 3.
- (iv) He had no connection whatsoever with the primary allottees of *CPAL* or of *PML*. Since he was not primary allottees of *PML* and had no connection with other allottees he did not have any comments to offer on the purported transfer of funds among these entities. He had no idea as to who was the buyer for the sale of shares made by him.
- (v) He denied being connected with other entities mentioned in the *interim order*. Such allegations are a mere surmise and not supported by any verifiable information.
- (vi) He did not trade in Patch I and hardly traded in Patch 2, so he could not affect the price or volume of *Kailash Auto* shares. The foregoing contention coupled with the fact that for trading to occur between him, the exit provider and Promoter related entities they had to know each other or have some connections, however order fails to provide any proof to suggest the same.
- (vii) He denied that he was one of the *beneficiaries*. He denied having indulged into any manipulative activities. He denied that he had violated any provisions of Section 2(42A) of the Income tax Act, 1961 with regard to alleged violation in paragraph 25 of the interim order. He also denied having violated provisions of the SEBI Act and the PFUTP Regulations as alleged. SEBI has passed order without providing any copy of the investigation report or seeking any explanation from him which is in violation of natural justice, equity and fair play.

- (viii) He prayed that an order lifting the directions issued under the *interim order* may be passed immediately.

D. Manju Rathi and Prakash Chandra Rathi (Represented by Ms. Shailashri Bhaskar):

- (i) They carry on their business in the name and style of Pooja Marbles in partnership. They kept track of the various investments opportunities available including opportunities in the stock market.
- (ii) All averments, observations, allegations and submissions made in the *interim order* were specifically and individually denied. Nothing in the order shall be deemed to be admitted on the basis of non-traverse of specific allegations or findings. They were not connected/ related to any entity mentioned in the *interim order*.
- (iii) It had been concluded without any documentary evidence and based on the surmises and conjectures that *beneficiaries* had used the stock exchange mechanism to convert their unaccounted income into accounted income with no payment of taxes as LTCG. The order lacked documentary evidence which can support the allegations made against them. SEBI had neither given them a chance to explain the rationale of their decision of investment not bothered to check their background and profile independently and passed such stringent order.
- (iv) They invested in the shares of *PML* somewhere in September 23, 2011. They had bought the shares of *PML* by investing their own funds. They received the shares of *Kailash Auto* in the ratio of 1:1 pursuant to amalgamation of *CPAL* and *PML* with *Kailash Auto*. The investment done by them was vigilant decision by doing the background check and evaluation of *PML*'s accomplishments. *PML* had also enlightened them about its imminent plans of merging with a listed company in near future and this was also one of the motivating factors to buy its shares. Later, when the price of the scrip increased and the investment was able to earn profit, they sold off the shares in tranches.
- (v) They were absolutely heedless about such actions happening in the market for the scrip and had no correlation with the increased traded volume and price of the scrip and the so called manipulations being carried out in the market.
- (vi) They were not involved in any devious trading in the scrip. The allegation that they earned a whopping return was based on a wrong calculation and/ or assumptions by taking the issue price as the cost price. The rise in the price of the scrip from date of listing till May 9, 2013 i.e the date of merger was irrelevant for them since they had not sold the shares.
- (vii) They sold their shares on the anonymous, electronics, order matching mechanism of stock exchange wherein the counter party was not disclosed. Prakash Chandra Rathi traded for only 10 trading days and Manju Rathi for 11 days out of total

trading days of around 700. Hence they denied having indulged in price and volume manipulation.

- (viii) They denied having created bogus LTCG which is exempt from tax and/ or evaded taxes since they were a regular tax payer, filed their returns regularly and had never been penalised by income tax department. There was no money laundering or tax evasion on their part. They had always observed the laws and had always abided to the provisions of various laws prevailing in India. They denied having violated provisions of the SEBI Act and Regulations of SEBI (PFUTP) Regulations.
- (ix) They prayed for the following :
- (a). allow to redeem their investment on securities, bond, mutual funds etc., and
 - (b). withdraw the direction passed against them in *interim order*.

E. Gaurav Goel and Gautam Goel (Represented by Mr. Somasekhar Sundaresan, Mr. Dhaval Kothari, Mr. Ravichandra Hedge, Mr. Paras Parekh, Mr. S. K Bhatnagar, Mr. Nalin K Gupta and Mr. Saket Sharma):

- (i) There was no correlation in the *interim order* or in the data provided to them with the directions issued against them. The *interim order* had not set out any reason for issuing interim directions against them.
- (ii) SEBI has not provided any clearer indication of the allegation against them. It is a trite law that a person against whom proceedings are initiated ought to be provided in no uncertain terms with the allegation against him.

F. Hitesh Ramprakash Chhatwal (Represented by Mr. Hitesh Ramprakash Chhatwal):

- (i) He is a commerce graduate and carries out his family businesses and investment mostly in FMPs, Debt Mutual Funds and Tax Free Bonds. The units of these FMPs, Debt Mutual Funds and Tax Free Bonds are maintained in his demat accounts with various DPs, almost all of which are pledged to various banks, against which he has availed credit facility for his business. He submits that his dealings will not adversely affect the interests of investors and the safety and integrity of the securities market. He also bought shares of 2 non-listed limited companies *viz.* PML and Original Fashion Traders Ltd. (OFTL), invested amount of ₹50 Lakhs each in both these companies. He was under impression that he was investing in low value stocks.
- (ii) He received 50 Lakh shares of PML on August 24, 2012 and 50 lakh shares of Kailash Auto on July 15, 2013 in lieu of shares of PML. He held on to his investments till February 2014, but because of his business requirement, seeing that the stock was not showing any sign of positive movement and in line with his

investment pattern of moving away from equities, he decided to sell his shares of *Kailash Auto*.

- (iii) The sale was executed on the anonymous platform of the exchange. He was not aware that he was being allowed an exit by certain entities related/ connected to *Kailash Auto*. Assuming but not accepting that few or many of his trades have matched with alleged entities related to *Kailash Auto*, he cannot be held responsible for that as he is totally unrelated to them.
- (iv) The order is beyond the powers conferred upon the Hon'ble WTM of SEBI and is grossly illegal and pervasive, affecting his constitutional rights and curtails his right to property by illegally attaching and illegitimately denying him access to his investments in FMPs Fixed Maturity Plans (FMPs), Debt Mutual Funds and Tax Free Bonds that are un-related to equity markets. He paid necessary taxes on the said earning and he was fully compliant with his tax obligations.
- (v) He grossly denied being a part of any such scheme of generating LTCG. He has also made similar investment in OFTL, which he still holds. Merely because he made handsome profit from his transactions in *PML* or *Kailash Auto* cannot be a reason to find fault with his transactions and take such drastic steps against him as interim measures in the guise or protection of interest of investors and regulation of markets without any evidence. The order fails to highlight the reason as to why anybody would allow him to profit in the form of LTCG. Further, the only reason that appears is that the purchasers purchased the shares of *Kailash Auto* anticipating further positive movement whereas he sold the same because he was satisfied with the profits that he was making.
- (vi) He denied any and all allegations in the order. He denied that he had violated any section of the SEBI Act or any of the PFUTP Regulations as alleged.
- (vii) The exercise of powers under SEBI Act is resulting in effectively pushing him out of market without proper adjudication. Confiscating huge amount of investments without bothering to go into the merit thereof is grossly unjust, untenable and unwarranted. As a result of the unwarranted restraint,, his business interests run a huge risk of shortage or non availability working capital.
- (viii) He prayed for the following:
 - (a). to reverse /set aside the Order so far as it relates to him; and
 - (b). to release his investments held in his demat accounts attached / frozen because of the order as almost all his investments are in FMPs, Debt Mutual Funds and Tax Free Bonds.

G. Sweety Manglani: (Represented by Mindspright Legal):

- (i) She is a business woman and along with her husband has nurtured their family business of textiles and transformed into a premier brand of ethnic Indian wear under name and style of "Meena Bazaar". She is a regular investor in the securities market and capitalizes the opportunity to make high returns. In November 2011,

she came to know about Jatadhari Marketing Private Limited ('JMPL') through the frequent advertisements placed in the financial newspaper which stated that they dealt in the shares of unlisted companies. She approached to see the list of securities which JMPL offered. JMPL impressed upon her that *CPAL* was engaged in to the business of investment in various companies and were holding shares of various companies, these investments would grow and could yield good profits. She felt it to be a good investment opportunity and purchased the shares of *CPAL*.

- (ii) Even though *Kailash Auto* initially did not perform well, its growth prospects were looking great, in light of commitment by new promoters of infusing fresh capital and revitalizing the business. Hence, as an optimistic investor, she took the risk of investing in the shares of *CPAL*. The risk paid off and the price of the scrip of *Kailash Auto* increased over time.
- (iii) On December 03, 2011, she purchased 8,00,000 shares of *CPAL* from JMPL through an off market transaction for a total consideration of ₹8,00,000. Pursuant to the Scheme of Amalgamation, she was allotted shares of *Kailash Auto* for the shares of *CPAL* held. Between January 17, 2013 and January 21, 2014, the shares of *Kailash Auto* were trading in the price range of ₹11/- to ₹48/-. Seeing this as an opportunity to earn good returns, she sold the shares in tranches in an anonymous stock exchange mechanism, and the said shares being bought by some exit providers, cannot be a ground to proceed against them.
- (iv) The documents provided were insufficient to show any connection between her and *Kailash Auto Group I* and *Kailash Auto Group II*. Out of total of 162 trades executed through 20 orders placed, only 38 trades placed through 13 orders have matched with *Kailash Auto Group I* and *Kailash Auto Group II*, on 12 dates, accounting for only 37.84% of the total quantity sold by her. Therefore, the maximum traded quantity matched with the entities which were not a part of the alleged exit providers.
- (v) The order fails to bring out her role in the alleged manipulative events or her connection/ relation with any of the entities mentioned. The said order fails to bring out evidences to show how the alleged *beneficiaries* were part of the alleged scheme of manipulations. In the said order, her individual role/ role of the alleged *beneficiaries* were not shown.
- (vi) Such allegations supported by no proof are in gross violation of the principles of natural justice. The order neither elaborates the factors which were evaluated to determine whether the balance of convenience does not lie in the favour of SEBI or on her nor does it provide any material based on which it was determined that the balance of convenience lies in the favour of SEBI.
- (vii) SEBI had not provided any material to establish that, any alleged injury/ harm would be caused to the securities market/ to the public at large if she continued to

operate in the securities market. No *prima facie* case has been made out to warrant the issuance of such *interim order* of such serious consequences against her.

- (viii) She denied the allegations made against her. She denied having violated the provisions of SEBI Act and PFUTP Regulation as alleged. She denied having employed any device, scheme or artifice to defraud in connection with dealing in or issue of securities.
- (ix) She requested that the order against her be quashed and all charges, inquiries and investigations against her be dropped. She requested to exonerate her from the investigation/ orders in the present matter.

H. Lakshmi Devi (Represented by Mindspright Legal):

- (i) Ms. Lakshmi Devi is into the business of Hire Purchase (Finance) for the last 15 years. During the period April 2013 to April 2016, she had traded in several securities. In February 2012, she came to know about Trump Traders Pvt. Ltd. (hereinafter referred to as "Trump") through the frequent advertisements placed in the financial newspaper which stated that they dealt in the shares of unlisted companies. She approached Trump which informed her about *CAPL* shares which could yield good profits. On February 29, 2012, she purchased 6,00,000 shares of *CPAL* from Trump in an off-market transaction for a total consideration of Rs. 6,00,000, and pursuant to the amalgamation, on June 10, 2013 she was allotted 6,00,000 shares of *Kailash Auto*. Once she had met her obligation to the seller, she in no way could control the usage of such funds.
- (ii) Between January 2013 to August 2013, the shares of *Kailash Auto* were trading on the stock exchange in the price range of ₹11/- to ₹42.45/-. Seeing this as a good opportunity to earn a good return on his investment, she sold the 6,00,000 shares of *Kailash Auto*. She had sold the shares of *Kailash Auto* through anonymous stock exchange mechanism, and the said shares being bought by some of the entities named as exit providers, cannot be a ground to proceed against them. A decision to invest in a company may not necessarily be based on the past performance of the company or on its statistical data, the investor may consider its business model, sector potential and existing competition posed to the company. Thus, the conclusion arrived regarding investments made in the company in pursuance of a prior understanding is completely wrong.
- (iii) Out of a total of 56 trades executed through 27 orders placed, only 17 trades placed through 8 orders have matched with 2 out of the 88 entities named under the *Kailash Auto Group I* or *Kailash Auto Group II* entities in the *interim order*, on 3 dates which is around 38.38% of the total quantity sold by her. Therefore, the maximum traded quantity of her matched with the entities which were not a part of the alleged *Kailash Auto Group I* or *Kailash Auto Group II*, Hence, the theory that the beneficiaries were provided exit by the connected parties does not hold.

- (iv) The *interim order* fails to bring out, the alleged manipulation or any connection/ relation of her with any of the entities mentioned. The said order failed to bring out evidence to show how the alleged *beneficiaries* were part of the alleged scheme. She does not have any relation with the any of the recipients of *CPAL* and *PML* shares or with any other entities as mentioned.
- (v) SEBI had not provided any material to establish that any alleged injury/harm would be caused to the securities market/ to the public at large if she continued to operate in the securities market. The *interim order* does not contain any reason to make out the case of any emergent situation or extreme urgency.
- (vi) The noticee denied the allegations made against her. She denied having violated provisions of the SEBI Act and the PFUTP Regulations as alleged. She denied having employed any device, scheme or artifice to defraud in connection with dealing in or issue of securities.
- (vii) She requested that the *interim order* against her be quashed and all charges, inquiries and investigations against her be dropped. She requested to exonerate her from the investigation/ orders and grant an opportunity of being heard on urgent basis.

I. Aasheesh Lalwani: (Represented by Mindspright Legal):

- (i) He is a very successful business man engaged in hire purchase (Finance) and real estate business for the last 12 years. During the period April 2013 to April 2016, he had traded in several other securities through the stock exchange mechanism. In February 2012, he came to know about Trump Traders Pvt. Ltd (hereinafter referred to as "Trump") through frequent advertisements placed in the financial newspaper which stated that they dealt in the shares of unlisted companies. This got him interested and he approached to see the list of securities which Trump offered. Trump impressed upon him that *CPAL* was engaged in to the business of investment in various companies and were holding shares of various companies. He was informed that these investments made by *CPAL* would grow and could yield good profits. He felt it to be a good investment opportunity and on February 29, 2012, he purchased 6,00,000 shares of *CPAL* from Trump for a total consideration of ₹6,00,000. Hence, with the hope that *Kailash Auto* will do well in future, he took the risk of investing in the shares of *CPAL*. The price of the scrip of *Kailash Auto* increased over time. Thus, the conclusion arrived regarding investments made in the company in pursuance of a prior understanding is completely wrong.
- (ii) He had not directly invested in the shares of *Kailash Auto* but was allotted shares of *Kailash Auto* as a result of the amalgamation of *CPAL* and *PML* with *Kailash Auto*. On July 10, 2013, he was allotted 6,00,000 shares of *Kailash Auto*.
- (iii) Between January 2013 to August 2013, the shares of *Kailash Auto* were trading in the price range of ₹11/- to ₹42.45/-. He sold 6,00,000 shares of *Kailash Auto*. He

sold the shares through anonymous stock exchange mechanism, and the said shares were bought by entities named as exit providers, cannot be a ground to proceed against them.

- (iv) Out of total 48 trades executed through 29 orders placed, only 6 trades placed through 2 orders have matched with 4 out of the 88 entities named under the *Kailash Auto Group I and Kailash Auto Group II*, on 2 dates. The percentage of trades that have matched with the 4 exit providers is around 5.83%.
- (v) The *interim order* fails to bring out his role in alleged manipulative events or his connection/ relation with entities mentioned. There is no evidence to show how the alleged beneficiaries were part of the alleged scheme of manipulations. The *interim order* had no averments/ observations/ finding to suggest that there existed any relation/connection/prior meeting of him with the entities who had influenced the price and volume of the scrip.
- (vi) The vital material in support of the allegation has not been made available to him, as the documents provided were insufficient to show any connection between him and *Kailash Auto Group I and Kailash Auto Group II*. The *interim order* neither elaborates the factors which were evaluated to determine whether the balance of convenience lies in the favour of SEBI or on him nor does it provide any material to show that the balance of convenience lies in the favour of SEBI.
- (vii) SEBI had not provided any material to establish that any alleged injury/ harm would be caused to the securities market/ to the public at large if he continued to operate in the securities market. The exercise of such an arbitrary power is unwarranted and unjustified *prima facie* case has been made out to warrant the issuance of such *interim order* of such serious consequences.
- (viii) He denied the allegations made against him. Nothing stated in the *interim order* shall be deemed to be admitted by him merely on account of non traverse. He denied that he has violated the provisions of SEBI Act and PFUTP Regulation as alleged. He has not either directly or indirectly employed any device, scheme or artifice to defraud in connection with dealing in or issue of securities, which are listed or proposed to be listed on a recognized stock exchange.
- (ix) He requested that the *interim order* against him ought to be quashed and all charges, inquiries and investigations against him be dropped. He requested to exonerate him from the investigation/ orders in the present matter and an opportunity of being heard at the earliest on urgent basis.

J. Saurabh Mittal and Kapil Mittal (Represented by Mindspright Legal):

- (i) They are the founders and promoters of Raghunandan Group. Both have extensive experience of more than 19 years financial markets. Both hold directorship positions in multiple companies, including Raghunandan Capital P. Ltd. – a stock broking entity. They invest in the share market based on various

reports, analysis and studies made by experts in the field and knowledge gained through acquaintances.

- (ii) In February 2012, they came to know from Mr. Anuj Goyal that shares of CPAL was available with Sanskriti Vincom Pvt. Ltd. ('SVPL') Mr Goyal also impressed that CPAL was engaged in the business of investment in various companies and were holding shares of various companies, these investments would grow and could yield good profits. On March, 2012, they purchased 3,00,000 shares of CPAL each from SVPL in an off market transactions for a total consideration of ₹3,00,000/-. Further, in May 2012, they came to know that CPAL and PML once Kailash Auto is acquired by PML and CPAL, they would infuse fresh capital in Kailash Auto and revamp the business. In July 2012, they again approached SVPL purchased 400000 shares of PML each at ₹1 per share. Following the amalgamation, they were allotted 7,00,000 shares of Kailash Auto each for the 7,00,000 shares each held by them in CPAL and PML. The price of the scrip Kailash Auto increased over time. Once they had met their obligation to the sellers, they in no way control the usage of such funds. Thus, the conclusion arrived regarding investments made in the company in pursuance of a prior understanding is completely wrong.
- (iii) Between August 2013 and Feb 14, 2014, the shares of Kailash Auto were trading in the price range of ₹37.50 to ₹38.70 and to earn a good return, Mr. Kapil Mittal sold his shares on stock exchanges. Between Jan 2013, and June 04, 2013, the shares of Kailash Auto were trading in the price range of ₹11 to ₹44.35 and to earn a good return Mr. Saurabh Mittal sold his shares.
- (iv) Out a total of 125 trades executed through 71 orders placed by Kapil Mittal, only 40 trades have matched with 9 entities named under the Kailash Auto Group I and Kailash Auto Group II, on 5 dates, amounting for 19.61% of the total quantity sold by him. Out of a total trades executed through 85 orders placed, only 15 trades have matched with 8 entities named under the Kailash Auto Group I and Kailash Auto Group II, on 7 dates for Saurabh Mittal. Thus, majority of the orders placed by them did not match with the entities belonging to Kailash Auto Group I or Kailash Auto Group II. The notices had sold their shares of Kailash Auto through anonymous stock exchange mechanism, and the said shares being bought by exit providers, cannot be a ground to proceed against them.
- (v) *Prima facie*, no case has been made out to warrant the issuance of such an ex-parte ad-interim order against her. Such allegations supported by no proof are in gross violation of the principles of natural justice. Neither does the order accompany any evidence/ documents/ materials, nor does it record any details of the evidence/ documents/ materials, which were collected by SEBI against them. The order fails to bring out role played by them in the alleged manipulative events or any connection/ relation with any of the entities mentioned. The order failed to bring

out evidence as to show how the alleged beneficiaries were part of the alleged scheme of manipulations. The vital material in support of the allegation has not been made available to them as the documents provided were insufficient to show any connection between them and *Kailash Auto Group I and Kailash Auto Group II*.

- (vi) The noticees denied the allegations made against them. They denied that they had violated the provisions of the SEBI Act and the PFUTP Regulations as alleged in the *interim order*. They denied having employed any device, scheme or artifice to defraud in connection with dealing in or issue of securities.
- (vii) They requested that the *interim order* against them be quashed and all charges, inquiries and investigations against them be dropped. They requested to exonerate them from the investigation/ orders in the present matter and an opportunity of being heard be granted on urgent basis.

K. Chandadevi Sarda, Rajesh Ramswarup Sarda HUF, Rajesh Ramswarup Sarda and Veena Rajesh Sarda (Represented by Mindspright Legal):

- (i) Mr Rajesh Ramswarup Sarda is the karta of Rajesh Ramswarup Sarda HUF and carries on his family business and is the proprietor of M/s. Lakshya Enterprises and Priyal Traders. In February 2013, the noticees came to know about Ritudhara Vincom Private Limited ('Ritudhara') through the frequent advertisements placed in the financial newspaper which stated that they dealt in the shares of unlisted companies. Ritudhara informed the entities about *CPAL* and also intimated that *CPAL* and *PML* had acquired substantial interest in *Kailash Auto* which is a listed NBFC and they would be revamping their existing business model of *Kailash Auto*. On March, 2013, 10,00,000 shares, 20,00,000 shares, 30,00,000 shares and 20,00,000 shares of *CPAL* were purchased by Chandadevi Sarda, Rajesh Ramswarup Sarda HUF, Rajesh Ramswarup Sarda and Veena Rajesh Sarda respectively from Ritudhara in an off-market transaction at the price of ₹1 per share for a total consideration of ₹80,00,000. Pursuant to the scheme of amalgamation in June 2013 the noticees were allotted shares of *Kailash Auto* for the shares held by them in *CPAL*. Unlike other beneficiaries, the noticees had not purchased the shares of *CPAL* from any connected entity as mentioned.
- (ii) Between January 2013 to July 2014, the shares of *Kailash Auto* were trading in the price range of ₹11/- to ₹48/-. Seeing this as a good opportunity, the noticees sold the shares. Around 63.03% and 81.79% of the total quantity sold through anonymous stock exchange mechanism by Rajesh Ramswarup Sarda HUF and Rajesh Ramswarup Sarda had been matched with *Kailash Auto Group I and Kailash Auto Group II*. The said shares being bought by exit providers cannot be a ground to proceed against them.
- (iii) The *interim order* fails to bring out any role played by the noticees in the alleged manipulation or their any connection/ relation with any of the entities

mentioned. The said order failed to bring out evidence as to show how the alleged beneficiaries were part of the alleged scheme of manipulations. Role of alleged Beneficiaries were not shown and hence they could not, *prima facie*, be presumed to be part of the alleged scheme of manipulations. The *interim order* had no averments/ observations/ finding to suggest that there existed any relation/ connection/ prior meeting of them with the entities who had influenced the price and volume of the scrip.

- (iv) The vital material in support of the allegation to show any connection between them and *Kailash Auto Group I and Kailash Auto Group II* has not been made available to them. They do not have any relation with the any of the entities in the said order. The said order neither elaborates the factors which were evaluated to determine whether the balance of convenience lies in favour of SEBI or on them nor does it provide any material based on which it was determined that the balance of convenience lies in the favour of SEBI.
- (v) SEBI had not provided any material to establish that, any alleged injury/harm would be caused to the securities market/to the public at large if the entities continued to operate in the securities market. The exercise of such an arbitrary power is unwarranted and unjustified. No *prima facie* case has been made out to warrant the issuance of such an *ad-interim ex-parte order* of such serious consequences against them.
- (vi) The noticees denied the allegations made against them. They denied that they had violated the provisions of the SEBI Act and the PFUTP Regulation as alleged. They have not employed any device, scheme or artifice to defraud in connection with dealing in or issue of securities exchange.
- (vii) They requested that the *interim order* against them be quashed and all charges, inquiries and investigations against them be dropped. The noticees requested to exonerate them from the investigation/ orders in the present matter.

L. Ramaswamy Santhnamani (Represented by Mindspright Legal):

- (i) He has positively impacted the society through various activities, he made investments in real estate and stock market. He had been investing in the share market based on various reports, analysis and studies made by experts in the field. In February 2012, he came to know about one Trump Traders Pvt. Ltd. ("Trump") through the frequent advertisements placed in the financial newspaper which stated that they dealt in the shares of unlisted companies. Trump informed him about *CAPL* shares which could yield good profits. On February, 2012, he purchased 20,00,000 shares of *CPAL* in an off-market transaction for a total consideration of ₹20,00,000 and following the amalgamation, on July 22, 2013 he was allotted 20,00,000 shares of *Kailash Auto*. Once he had met his obligation to the seller, he could in no way control the usage of the such funds

- (ii) Even though the *Kailash Auto* did not perform well, its growth prospects were looking great, in light of commitment new promoters of infusing fresh capital. Hence, as an optimistic investor, he took the risk of investing in the shares of *CPAL*. The price of the scrip of *Kailash Auto* increased over time. Thus, the conclusion arrived regarding investments made in pursuance of a prior understanding is completely wrong.
- (iii) Between January 2013 and November 24, 2013, the shares of *Kailash Auto* were trading in the price range of ₹11 to ₹44.55. To earn a good return, he sold his shares through anonymous stock exchange mechanism, and the said shares being bought by exit providers, cannot be a ground to proceed against him. Out a total of 767 trades executed through 50 orders placed, only 539 trades have matched with 20 entities named under the Exit Providers, on 15 dates which is around 65.9% of the total quantity sold by him. Thus, around 34.1% of his trading volume had been matched with those entities which were not exit providers.
- (iv) The order fails to bring out, his role in the alleged manipulation or his connection/ relation with any of the entities mentioned. Also the order fails to bring out evidence as to show how the alleged *beneficiaries* were part of the alleged ccheme of manipulation.
- (v) SEBI had not provided any material to establish that, any alleged injury/ harm would be caused to the securities market/ to the public at large if he continued to operate in the securities market. He does not have any relation with the any of the recipients of *CPAL* and *PML* shares or with any of these entities as mentioned in the interim order.
- (vi) The said order against him has been passed with prejudice and bias overtaking the equity and fair play expected of a public authority. The order does not contain any reason to make out the case of any emergent situation or extreme urgency.
- (vii) He denied the allegations made against him. He denied having violated the provisions of the SEBI Act and the PFUTP Regulations as alleged in the *interim order*. He denied having employed any device, scheme or artifice to defraud in connection with dealing in or issue of securities.
- (viii) He requested that the *interim order* against him ought to be quashed and all charges, inquiries and investigations against him be dropped. He requested to exonerate him from the investigation/ orders in the present matter.

M. Abhishek Agarwal (Represented by Prakash Shah & Associates):

- (i) The entity had no connection and relationship with alleged *Kailash Auto*, its promoters, directors, employee or any of its alleged connected entities, with alleged *primary allottees* of *CPAL* / *PML*, *recipients of CPAL/PML*, *Kailash Auto Group I and II* or any of its alleged connected entities and with any of the entities who allegedly established New High Price in *Kailash Auto* as mentioned in the *Interim Order*.

- (ii) No adverse inference can be drawn against the entity only on the basis that he received shares of *Kailash Auto* as consequence of amalgamation and he sold shares of *Kailash Auto* during relevant time. He understood that merely 118 entities out of 3592 entities were made part of present proceedings and no action was taken against remaining 3474 entities. Such an approach towards similarly placed entities is unfair and arbitrary.
- (iii) The entity submitted that except for being bonafide shareholder of *PML* he had no relation with internal working or any other activity of said company. With respect to *PML* and *CPAL* he was not director or key management person or in control of company so as to take decision regarding shareholding or capital evolution of company.
- (iv) The entity stated during the relevant time, a large number of entities were dealing in *Kailash Auto* and volume in said scrip was substantial. He submitted that their trading in the scrip did not affect the market equilibrium. Also matching in stock market is a computer system driven process and buy/sell order in scrip was done by online trading module.
- (v) The entity denied having violated any of the provisions of the PFUTP Regulations or provisions of the SEBI Act. The entity also said that *Interim order* was in the gross violation of the basic principle of natural justice and prayed as follows:-
 - (a). Allow to sell shares and securities, liquidate and redeem units of mutual funds , held in its account and utilize the sale proceeds thereof for its needs based requirements
 - (b). To buy, sell and deal in securities except in the share of *Kailash Auto*
 - (c). To subscribe to units of mutual funds including SIP and redeem the mutual funds so subscribed.
 - (d). To avail benefits of corporate actions.

N. Om Prakash Agarwal(HUF), Om Prakash Agarwal, Vikas Agarwal, Rahul Agarwal, Nikita Agarwal and Shilpa Agarwal (Represented by MR. Somasekhar Sundaresan, Advocate, Mr. Dhaval Kothari, Advocate, Mr. Ravichandra Hedge, Advocate and Mr. Paras Parekh, Advocate):

- (i) There was no correlation in the *interim Order* or in the data provided to the entities with the directions issued against them. The *interim Order* has not set out any reason as to why interim directions ought to have been issued against them.

O. Ashish Singhania (Represented by Mr. Ravichandra Hedge, Advocate and Mr. Paras Parekh, Advocate):

- (i) There was no correlation in the *interim Order* or in the data provided to the entities with the directions issued against them. The *interim Order* has not set out any reason as to why interim directions ought to have been issued against them.

P. Dilip Kumar S Jain, Geetha Jain (Represented by Prakash Shah & Associates):

- (i) The entity had no connection and relationship with alleged *Kailash Auto*, its promoters, directors, employee or any of its alleged connected entities, with alleged *primary allottees* of CPAL / PML, *recipients of CPAL/PML*, *Kailash Auto Group I and II* or any of its alleged connected entities and with any of the entities who allegedly established New High Price in *Kailash Auto* as mentioned in the *Interim Order*.
- (ii) The entity invested in the shares of CPAL based on the advice provided by an individual engaged as spot dealer, who informed the entity that he should invest in CPAL assuring that it had good future. He invest in small ventures and since amount involved in purchase of said shares was an extremely minuscule portion of his total net worth, he was not cautious while purchasing the same, he submitted that while buying the shares he had no idea whether he will make profit or loss on the said investment. He invested in the company based on its future prospects and growth potential and not the present financials of the company. He was also informed that *Kailash Auto* was registered with RBI as a NBFC having registration number B-12.00129 dated 12.01.2009.
- (iii) As any prudent businessman, he sold the shares when the prices of *Kailash Auto* were high to make profit. His trading volume was miniscule vis-a-vis the days' volume in scrip of *Kailash Auto* and also sale was at the prevailing market price. Also his trading was not concentrated and spread in month of October 2013, January 2014 and February 2014 and were delivery based.
- (iv) The entity stated during the relevant time, a large number of entities were dealing in *Kailash Auto* and volume in said scrip was substantial. He submitted that their trading in the scrip did not affect the market equilibrium. Also matching in stock market is a computer system driven process and buy/sell order in scrip was done by online trading module.
- (v) No adverse inference can be drawn against the entity only on the basis that he received shares of *Kailash Auto* as consequence of amalgamation and he sold shares of *Kailash Auto* during relevant time. He understood that merely 118 entities out of 3592 entities were made part of present proceedings and no action was taken against remaining 3474 entities. Such an approach towards similarly placed entities is unfair and arbitrary.
- (vi) The entity submitted that except for being bonafide shareholder of PML he had no relation with internal working or any other activity of said company. With respect to PML and CPAL he was not director or key management person or in control of

company so as to take decision regarding shareholding or capital evolution of company.

(vii) The entity said that order was in the gross violation of the basic principle of natural justice and prayed as follows:-

- (a). Allow to sell shares and securities, liquidate and redeem units of mutual funds , held in its account and utilize the sale proceeds thereof for its needs based requirements
- (b). To buy, sell and deal in securities except in the share of *Kailash Auto*
- (c). To subscribe to units of mutual funds including SIP and redeem the mutual funds so subscribed.
- (d). To avail benefits of corporate actions.

Q. Neeraj Kumar Singla and Dharam Paul Singla (Represented by Prakash Shah & Associates):

- (i) The entity had no connection and relationship with alleged *Kailash Auto*, its promoters, directors, employee or any of its alleged connected entities, with alleged *primary allottees* of *CPAL / PML*, *recipients of CPAL/PML*, *Kailash Auto Group I and II* or any of its alleged connected entities and with any of the entities who allegedly established New High Price in *Kailash Auto* as mentioned in the *Interim Order*.
- (ii) The entity stated during the relevant time, a large number of entities were dealing in *Kailash Auto* and volume in said scrip was substantial. He submitted that their trading in the scrip did not affect the market equilibrium. Also matching in stock market is a computer system driven process and buy/sell order in scrip was done by online trading module.
- (iii) No adverse inference can be drawn against the entity only on the basis that he received shares of *Kailash Auto* as consequence of amalgamation and he sold shares of *Kailash Auto* during relevant time. He understood that merely 118 entities out of 3592 entities were made part of present proceedings and no action was taken against remaining 3474 entities. Such an approach towards similarly placed entities is unfair and arbitrary.
- (iv) The entity submitted that except for being bonafide shareholder of *PML* he had no relation with internal working or any other activity of said company. With respect to *PML* and *CPAL* he was not director or key management person or in control of company so as to take decision regarding shareholding or capital evolution of company.
- (v) The entity said that order was in the gross violation of the basic principle of natural justice and prayed as follows:-
 - (a). Allow to sell shares and securities, liquidate and redeem units of mutual funds , held in its account and utilize the sale proceeds thereof for its needs based requirements

- (b). To buy, sell and deal in securities except in the share of *Kailash Auto*
- (c). To subscribe to units of mutual funds including SIP and redeem the mutual funds so subscribed.
- (d). To avail benefits of corporate actions.

R. Shersingh Agarwal, Shersingh Agarwal HUF and Dinesh Shersingh Agarwal (Represented by Prakash Shah & Associates):

- (i) The entity had no connection and relationship with alleged *Kailash Auto*, its promoters, directors, employee or any of its alleged connected entities, with alleged *primary allottees* of *CPAL / PML*, *recipients of CPAL/PML*, *Kailash Auto Group I and II* or any of its alleged connected entities and with any of the entities who allegedly established New High Price in *Kailash Auto* as mentioned in the *Interim Order*.
- (ii) The entity stated during the relevant time, a large number of entities were dealing in *Kailash Auto* and volume in said scrip was substantial. He submitted that their trading in the scrip did not affect the market equilibrium. Also matching in stock market is a computer system driven process and buy/sell order in scrip was done by online trading module.
- (iii) No adverse inference can be drawn against the entity only on the basis that he received shares of *Kailash Auto* as consequence of amalgamation and he sold shares of *Kailash Auto* during relevant time. He understood that merely 118 entities out of 3592 entities were made part of present proceedings and no action was taken against remaining 3474 entities. Such an approach towards similarly placed entities is unfair and arbitrary.
- (iv) The entity submitted that except for being bonafide shareholder of *PML* he had no relation with internal working or any other activity of said company. With respect to *PML* and *CPAL* he was not director or key management person or in control of company so as to take decision regarding shareholding or capital evolution of company.
- (v) The entity said that order was in the gross violation of the basic principle of natural justice and prayed as follows:-
 - (a). Interim order may be vacated
 - (b). grant urgent interim relief pending investigation and passing of final order

S. Shri. Pratapsinh Ganpatrao Jadhav (Represented by Mr. Ravichandra Hedge, AdvocateMr. Paras Parekh, Advocate)

- (i) He has been trading in the securities market since several years and such unwarranted disruption and restraint on the constitutional right to transact in the market on the basis of an unending and ongoing investigation is completely unfair, untenable and unsustainable.

- (ii) He denied all the allegations against him in the *interim order*. He requested SEBI to expedite the investigation process and that a time frame be fixed to complete the investigation.
- (iii) The entity stated that there was no correlation between the records provided by the SEBI and the allegations made against him in the *interim order*. The status of investigation in relation to him since the issues of the interim order is not known. There is no notice, or request for further information to him whereas he continues to suffer debarment since the last six months. It becomes imperative therefore that the direction of restrain against him be discontinued.
- (iv) He prayed that interim relief may be passed in favour of him by way of a confirmatory order as has been done by SEBI in similar cases.

T. Sunil Kumar Jain (Submitted the documents)

- (i) The entity denied all the allegations made against him in the *interim order* except the ones that are specifically admitted herein.
- (ii) The entity had purchased 6,00,000 equity shares of CPAL from Ritudhara Vincom Private Limited on March 09, 2013. On merger of CPAL and Kailash Auto, he received 6,00,000 shares of Kailash Auto in his Demat account on July 13, 2013. Further, the entity sold off all his shares of Kailash Auto in tranches on the exchange in open market through computerized platform of the exchange.
- (iii) SEBI did not provide reasons of restraining only the entity and other 117 *beneficiaries* who had traded more than 5,00,000 equity shares of Kailash Auto from dealing in the securities market while allowing the remaining entities who sold and traded less than 5,00,000 shares of Kailash Auto to continue to deal in the securities market.
- (iv) The *interim order* is vitiated by gross violation of the principles of natural justice. Also there is no emergent situation or circumstances warranting such an *ex-parte ad interim order*.
- (v) The entity had denied nexus with Kailash Auto and its directors/promoters and /or other entities in the alleged transactions. He denied that he was ever a part of any scheme, plan, device and/or artifice employed either in a SEBI case, or any other case of tax evasion. He denied having violated any of the provisions of PFUTP Regulations or provisions of SEBI Act.

U. Charanjeet Singh, Sangeeta Sachdev, Satish Jain and Sandhya Jain (Represented by Prakash Shah & Associates):

- (i) The entities had no connection and relationship with alleged Kailash Auto, its promoters, directors, employee or any of its alleged connected entities, with alleged *primary allottees* of CPAL /PML, *recipients of CPAL/PML*, Kailash Auto Group I and II or any of its alleged connected entities and with any of the entities who allegedly established New High Price in Kailash Auto as mentioned in the *Interim Order*.

- (ii) They had not employed any manipulative or deceptive device with respect to their purchase or sale of shares of *Kailash Auto*. They had not employed any device, scheme or artifice to defraud anyone and had not engaged in any act, practice, course of business which operates as fraud or deceit upon persons while dealing in shares of *Kailash Auto*. They had not indulged in an act which created false or misleading appearance of trading in scrip of *Kailash Auto*. Further, they did not have any intention to affect transfer of beneficial ownership or any intention to act or omission amounting to manipulation of its price.
- (iii) The *interim order* had been issued *ex-parte* without any prior communication, notice, letter or any correspondence seeking their explanation or clarification on the subject matter. Thus, the order was in the gross violation of the basic principle of natural justice.
- (iv) Their Demat accounts had been frozen as a consequence of the order .SEBI had acted beyond its scope and purview and power assigned to it and transgressed the power delegated to it by the parliament of India
- (v) The entities had prayed as follows:-
 - (a). Allow to sell shares and securities, liquidate and redeem units of mutual funds , held in its account and utilize the sale proceeds thereof for its needs based requirements
 - (b). To buy, sell and deal in securities except in the share of KAFL
 - (c). To subscribe to units of mutual funds including SIP and redeem the mutual funds so subscribed.
 - (d). To avail benefits of corporate actions.
 - (e). *Interim order* may be vacated pending investigation.

V. Rajendra Neminath Shete HUF, Rajendra Neminath Shete, Manisha Rajendra Shete, Niranjan Rajendra Shete and Nilavati Neminath Shete (Represented by Mr. K.C. Jacob, Advocate):

- (i) The noticees denied all the allegations made against them. Nothing stated in the said order shall be deemed to be admitted by them merely on account of non traverse. They had not violated the provisions of SEBI Act and PFUTP Regulation as alleged. The *interim order* is vitiated by gross violation of the principles of natural justice as no opportunity of hearing was granted to them before passing the above *interim order*. There is no emergent situation or circumstances warranting such an *interim order*.
- (ii) They invested in the securities market through their broker namely Nirmal Bang Securities. They had been dealing in the stock market for a considerable period of time and had never defaulted in meeting their payment or delivery obligation. They

had clean track record. Till date, no order/notice has been issued by SEBI to them, except the present *interim order*.

- (iii) Around September 2012, they came to know about *PML* through their family members and/or stock brokers in Mumbai or few of friends in Mumbai. They also got to know about its possibility of merger with *Kailash Auto*. This gave them conviction to invest in the company. They had decided to purchase 5 lakh shares each of *PML* by paying ` 5 lakhs each by cheque. The said 5 lakhs shares had appeared in their demat accounts held at nirmal bang securities on October 2012. Pursuant to amalgamation of *PML* with *Kailash Auto*, they were allotted 5 lakh equity shares of ₹ 1/- each as consideration. Thereafter in 2013-14, as the price of the share got increased, they decided to sell the shares at various dates. They were not aware of the counter party purchaser/buyers and same was not possible to know on the screen based mechanism of the stock exchanges.
- (iv) Since there was nothing in the public domain about anything amiss in the scrip of *Kailash Auto* and also neither stock exchange nor SEBI had raised any grievance about the price rise or volume rise in the scrip at that point of time. They had sold the shares as the price had been witnessing decent movement. The payout amounts received by them towards the sale of shares from time to time were utilized for their own personal and financial purpose and were not transferred whether directly or indirectly to any of the entities as stated in the order.
- (v) They did not have any link/nexus/connections with *Kailash Auto*, its promoter/directors, save and except as a shareholder, by virtue of a shareholder, having received shares from the recipients of *CPAL*, who in turn received shares from the primary allottees of *CPAL*.
- (vi) It was submitted that they were not aware about any of preliminary enquiry in the dealings in the scrip of *Kailash Auto*. Also they were not aware of the surprise inspection at the registered office of the *Kailash Auto* conducted by BSE as a part of SEBI inquiry.
- (vii) The noticees stated that they had no knowledge as to how these entities acted as net buyers to provide exit to them as their trading was done in the natural course of business. They submitted that they had no role to play in the price rise during patch 1.
- (viii) It was also submitted that the criteria of 5 lakhs shares and more shares sold taken for short listing the entities is arbitrary and this is against the natural justice as the regulator cannot cheery pick and handout penalties.
- (ix) The entities stated that merely because they had made huge profits by selling the shares which SEBI finds on higher side, the sale by them cannot be questioned as marking profit or loss is a part of the trading in the securities market and claim to LTCG is a matter of right. Also the sale by them cannot be questioned on the ground that fundamentals like key financials figures or ratios of the company don't

justify the price and are below the industry standards etc. Price is not determined just based on fundamentals but many other factors, including demand and supply.

- (x) They denied that they had offloaded the shares of *Kailash Auto* at an average price of ₹ 35 each to the alleged connected entities of *Kailash Auto group I and II* and made huge profit approx 3400%. It was denied that during Patch-2 the price in the scrip of *Kailash Auto* was maintained by the artificial demand supply forces and fabricated through the beneficiaries and entities of *Kailash Auto Group I and II*
- (xi) They requested the charges in the order be dropped and direction issued against them be withdrawn and they be permitted to deal in securities market. Also their Demat account be unfreeze or alternatively they be allowed to sell their shareholding in scrip other than the impugned scrip and to utilise the proceeds for their requirements.

W. Uma Sarda and Ghanshyam Sarda HUF: (Represented by Mr. K.C. Jacob, Advocate)

- (i) Uma Sarda and Ghanshyam Sarda invests in the securities market through their broker viz. Ventura Securities limited. They had been dealing in the stock market for a considerable period of time and had never defaulted in meeting their payment or delivery obligation. They had clean track record. Till date, no order/notice has been issued by SEBI to them, except the present proceeding.
- (ii) The noticees denied the allegations made against them. Nothing stated in the said order shall be deemed to be admitted by them merely on account of non traverse. They had not violated the provisions of SEBI Act and PFUTP Regulation as alleged.
- (iii) The *interim order* is vitiated by gross violation of the principles of natural justice as no opportunity of hearing was granted to them before passing the order. Also there is no emergent situation or circumstances warranting such an *ex-parte ad interim order*.
- (iv) Around January 2012, they came to know about *CPAL* through few stock brokers in Kolkata. They also got to know about possibility of merger of *CPAL* with *Kailash Auto*. This gave them conviction to invest in the company. They had decided to purchase 5 lakh shares each of *CPAL* by paying ₹5 lakhs each. Pursuant to amalgamation of *CPAL* with *Kailash Auto*, they were allotted 5 lakh equity shares of ₹ 1/- each as consideration.
- (v) In September 2013, as the price of the share got increased, they decided to sell the shares. Uma Sarda and Ghanshyam Sarda HUF sold 5, 00,000 shares on various date from September 11, 2013 to September 24, 2013 and from November 19,2013 to December 6,2013 respectively at the market price at which it was trading in the exchange. They were not aware of the counter party purchaser/buyers and same was not possible to know on the screen based

mechanism of the stock exchanges. The pay-out amounts received by them towards the sale of shares from time to time, were utilized for their own personal and financial purpose and were not transferred whether directly or indirectly to any of the entities as stated in the order.

- (vi) They did not have any link/nexus/connections with *Kailash Auto*, its promoter/directors, save and except as a shareholder, by virtue of a shareholder, having received shares from the recipients of *CPAL*, who in turn received shares from the primary allottees of *CPAL*, referred in the order.
- (vii) They also submitted that they were not aware of the surprise inspection at the registered office of the *Kailash Auto* conducted by BSE as a part of SEBI inquiry. The noticees stated that they had no knowledge as to how *Kailash Auto Group I and Kailash Auto Group II* acted as net buyers to provide exit to them as their trading was done in the natural course of business where in when she found the prices are attractive she sold the shares accordingly. She submitted that they had no role to play in the price rise during patch 1. None of the entities had traded at their behest or on their behalf. The noticees denied the funds received by recipient of shares from them as purported consideration for transfer of shares of *CPAL*, were transferred to various other entities including *PML*.
- (viii) It was also submitted that the criteria of 5 lakhs shares and more shares sold taken for short listing the entities is arbitrary and this is against the natural justice as the regulator cannot cheery pick and handout penalties.
- (ix) They denied that they had offloaded the shares of *Kailash Auto* at an average price of ₹ 35 each to the alleged connected entities of *Kailash Auto Group I and Kailash Auto Group II* and made huge profit of approximately 3400%. It was denied that during patch 2 the price in the scrip of *Kailash Auto* was maintained by the artificial demand supply forces and fabricated through the beneficiaries and entities of *Kailash Auto Group I and Group II*.
- (x) They requested the charges in the order be dropped and direction issued against them be withdrawn and they be permitted to deal in securities market. Also their Demat account be unfreeze or alternatively they be allowed to sell their shareholding in scrip other than the impugned scrip and to utilise the proceeds for their requirements.

8. I have carefully considered the allegations and the submissions of the noticees herein and have perused the relevant documents and material available on record. I note that the limited issue to be considered, in view of submissions made by the noticees and in the facts and circumstances so far brought on record in the instant case, is as to whether the directions issued in the *interim orders qua* the noticees need to be continued, revoked or modified in any manner. It is noted that the respective noticees have not disputed the facts relating to buying of shares of *CPAL* and *PML* from the *recipients of CPAL and PML* and the trading in the

scrip, as allged in the *interim order*.

9. Before proceeding further, I deal with the preliminary and common contentions raised by the noticees. The first such contention is that the *interim order* has been passed in complete disregard of the principles of natural justice in as much as no opportunity of hearing was provided to the noticees. In this regard, I note that the *interim order* has been passed on the basis of *prima facie* findings observed during the preliminary examination/ inquiry undertaken by SEBI. The facts and circumstances necessitating issuance of *interim* directions by the *interim order* have been examined and dealt with in the *interim orders*. The *interim orders* have also been issued in the nature of show cause notice affording the noticees a post decisional opportunity. This position has been upheld in various judgements of the Hon'ble SAT, the Hon'ble High Courts and the Hon'ble Supreme Court. Relevant extracts of few such judgments, are referred to hereinafter:-

- (i) Hon'ble Bombay High Court in *Anand Rathi & Others Vs. SEBI* (2002 (2) BomCR 403 upheld the procedure of post decisional hearing in such matters and observed as under:

"31. It is thus clearly seen that pre decisional natural justice is not always necessary when ad-interim orders are made pending investigation or enquiry, unless so provided by the statute and rules of natural justice would be satisfied if the affected party is given post decisional hearing. It is not that natural justice is not attracted when the orders of suspension or like orders of interim nature are made. The distinction is that it is not always necessary to grant prior opportunity of hearing when ad-interim orders are made and principles of natural justice will be satisfied if post decisional hearing is given if demanded.

32. Thus, it is a settled position that while *ex parte* interim orders may always be made without a pre decisional opportunity or without the order itself providing for a post decisional opportunity, the principles of natural justice which are never excluded will be satisfied if a post decisional opportunity is given, if demanded."

- (ii) Hon'ble High Court of Judicature for Rajasthan at Jaipur in the matter *Avon Realcon Pvt. Ltd. & Ors Vs. Union of India & Ors* (D.B. Civil WP No. 5135/2010 Raj HC) has held that:

"...Perusal of the provisions of Sections 11(4) & 11(B) shows that the Board is given powers to take few measures either pending investigation or enquiry or on its completion. The Second Proviso to Section 11, however, makes it clear that either before or after passing of the orders, intermediaries or persons concerned would be given opportunity of hearing. In the light of aforesaid, it cannot be said that there is absolute elimination of the principles of natural justice. Even if, the facts of this case are looked into, after passing the impugned order, petitioners were called upon to submit their objections within a period of 21 days. This is to provide opportunity of hearing to the petitioners before final decision is taken. Hence, in this case itself absolute elimination of principles

of natural justice does not exist. The fact, however, remains as to whether post-decisional hearing can be a substitute for pre-decisional hearing. It is a settled law that unless a statutory provision either specifically or by necessary implication excludes the application of principles of natural justice, the requirement of giving reasonable opportunity exists before an order is made. The case herein is that by statutory provision, principles of natural justice are adhered to after orders are passed. This is to achieve the object of SEBI Act. Interim orders are passed by the Court, Tribunal and Quasi Judicial Authority in given facts and circumstances of the case showing urgency or emergent situation. This cannot be said to be elimination of the principles of natural justice or if ex-parte orders are passed, then to say that objections thereupon would amount to post-decisional hearing. Second Proviso to Section 11 of the SEBI Act provides adequate safeguards for adhering to the principles of natural justice, which otherwise is a case herein also...”

10. I, therefore, do not find any violation of principles of natural justice while passing the interim order as has been contended by the noticees. In my view, Section 11(1) of the SEBI Act casts the duty on SEBI to protect the interests of the investors, promote development of and to regulate the securities market, “*by such measures as it thinks fit*”. Apart from this plenary power, Section 11(2) of the SEBI Act enumerates the illustrative list of measures that may be provided for by SEBI, in order to achieve its objectives. One of the measures enumerated in Section 11(2)(e) is, “*prohibiting fraudulent and unfair trade practices relating to securities markets*”. The word ‘*measure*’ has not been defined or explained under the SEBI Act. However, it is well settled position that this word has to be understood in the sense in which it is generally understood in the context of the powers conferred upon the concerned authority. From the provisions of Section 11 of the said Act, it is clear that the purpose of Section 11(2)(e) of the SEBI Act is to prohibit all fraudulent and unfair trade practices relating to the securities market and the Board may take any ‘*measures*’ in order to achieve this purpose.
11. The ‘*measures*’ and the directions under Sections 11 and 11B of the SEBI Act can be taken/ issued for prohibiting the fraudulent and unfair trade practices relating to the securities market and for achieving the objective of investor protection, and promotion of and regulation of the securities market. It is also pertinent to mention that the *interim order* has been passed in the course of preliminary inquiry and the investigation in the matter is ongoing. Based on the *prima facie* findings in the matter and in order to protect the interest of investors in the securities market, SEBI had issued directions vide the *interim order*.
12. In this case, as discussed hereinabove, the purpose of the *interim order* is to achieve the objectives of investor protection and safeguarding the market integrity by enforcing the provisions of the SEBI Act and the SCRA. I, therefore, do not agree with the contentions of the noticees with regard to the scope of the *interim order* and the power of SEBI in the matter.
13. Another preliminary contention raised by most of the noticees is that no emergency situation had existed warranting such an *ex parte interim order*. I note that the time taken to arrive at

such decision/ action is dependent on the complexity of the matter, its scale and *modus operandi* involved and other attendant circumstances. The power under Section 11 and 11B of the SEBI Act can be invoked at any stage, i.e., either during pendency or on completion of enquiry/ inquiry or investigation. The *modus operandi* as detailed in the *interim orders* where suspected entities were found misusing the stock exchange mechanism came to light only in the year 2016. The *interim orders* have clearly brought out the reasons and circumstances for issuance of *ex-parte* directions. I, therefore, do not find any merit in this common preliminary contention of the noticees.

14. Certain noticees have also contended that the primary allegation in the *interim order* against them is of conversion of unaccounted income into accounted one and subsequent tax evasion, which falls outside the jurisdiction of SEBI. Further, assuming without accepting, that SEBI does not have jurisdiction to adjudicate upon the same, even then, no case has been made out to establish that their trades in the scrip was with a view to evade tax. In this regard, I note that the *interim order* has reasonably highlighted the *modus operandi* wherein the scheme, plan, device and artifice employed, apart from being a possible case of tax evasion (which could be seen by the concerned law enforcement agencies separately) is *prima facie* also a fraud in the securities market, in as much as it involves manipulative transactions in securities and misuse of the securities market. Accordingly, I am of the view that SEBI has acted well within its jurisdiction, in the matter. I, therefore, do not agree with the respective contentions of the noticees, in this regard.
15. Certain noticees have also contended that no material evidence has been brought on record to demonstrate any kind of nexus or prior arrangement between the *beneficiaries* and the *Kailash Auto*, *CPAL* and *PML* or any other entities debarred by this order. Some of the noticees have also contended that they have invested in the *PML* and/ or *CPAL* based on background of the company, positive news/ rumours about the company, such as *Kailash Auto* will be acquired by *PML* and *CPAL*, they would infuse fresh capital in *Kailash Auto* and revamp the business, etc. In this regard, I note that the noticees were unable to demonstrate or provide plausible reasons as to why any rational investor would like to invest in a closely held company with hardly any operations and had poor business/ financial standing. *CPAL* and *PML* had nil value of tangible and intangible assets. Despite such poor background of the company, the exuberance shown by the noticees for companies like *CPAL* and *PML* cast doubt on the investment/ trading strategy of these noticees. In my view, this type of investment was possible only when the entities are acting in nexus for a common objective as brought out in the *interim order*.
16. As regard the contention of certain noticees that pricing of a scrip is subjective, contingent upon forces of demand and supply and at no point of time either the stock exchange or SEBI had raised any alarm as to price movement in the scrip, I note that it is an admitted position that the movement in the price of a scrip is driven by various factors. Unlike in the

instant case, the steep price rise with meagre volume followed by sudden increase in volume at high price cannot be assumed as a normal market trend when the buyers and sellers of *Patch - 2* are found to be entities of *Kailash Auto Group I and Kailash Auto Group II* and *beneficiaries*. The facts and circumstances of this case were fit for issuing directions by way of *interim orders* during the pendency of the investigation. I, therefore, do not find any merit in the contentions of the noticees. It has been found that certain entities of *Kailash Auto Group I and Kailash Auto Group II* had acted as buyers when the beneficiaries were selling the shares of *Kailash Auto*. It is apparent from the trading pattern that the said *Kailash Auto Group I and Kailash Auto Group II* entities had bought shares at high prices in market which saw sudden sale of huge number of shares post amalgamation by the *beneficiaries*. Such trading behaviour belies any economic rationale and indicates existence of premeditated arrangement among the *beneficiaries* and those *Kailash Auto Group I and Kailash Auto Group II*.

17. Another common contention of the *beneficiaries* and the *Kailash Auto Group I and Kailash Auto Group II* entities is that they had traded on the anonymous screen based system of the stock exchanges and as such their trades cannot be regarded as having manipulative/ fraudulent intent. In this context, I note that in screen based trading, the manipulative or fraudulent intent can be inferred from various factors such as conduct of the party, pattern of transactions, etc. In this context, vide its order dated July 14, 2006, in *Ketan Parekh Vs. SEBI* (Appeal no. 2/2004), the Hon'ble SAT has observed that:

"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."

18. Having dealt with the preliminary and common contentions of the noticees, I now proceed to separately deal with the specific submissions of the noticees of the respective categories.

A. Primary allottees of CPAL and PML: Solty Dealtrade Pvt. Ltd., Needful Projects Advisory Pvt. Ltd. and Timeless Suppliers Pvt. Ltd.:

19. In the category of *primary allottees of CPAL and PML*, Solty Dealtrade Pvt. Ltd., Needful Projects Advisory Pvt. Ltd. and Timeless Suppliers Pvt. Ltd. have contended that they had been made part of the alleged *Primary Allottees of CPAL and PML*. They were not part of any scheme, plan, device and/ or artifice employed either in a SEBI case, or any other case of tax evasion. They denied that they had carried out manipulative transactions in securities or have misused the securities market and have not violated provisions of the SEBI Act or the PFUTP Regulations.

20. In this regard, the *interim order* has alleged that “CPAL and PML made private placement of their equity shares at the huge share premium to *certain entities related/ connected to each other on the basis of common address and common directors as presented in the table 5 and table 6 of the interim order*. I note the allegation has been levelled on the basis of inter-relationship/ connections, bank statements, off-market transactions amongst themselves and the information available on the website maintained by the Ministry of Corporate Affairs (“MCA”). In addition, circulation of funds between CPAL, PML and their primary allottees were noted which indicates that, as a result of these private placements to the *primary allottees of CPAL and PML* on March 31, 2011, CPAL and PML had purportedly raised share premium of ₹19,47,91,450/- and ₹23,24,61,000/-, respectively. Such circulation of funds shows that no actual cash or any consideration were paid by *primary allottees of CPAL and PML*, to CPAL and PML when equity shares of CPAL and PML were allotted to their *Primary allottees* through private placement.
21. In the instant case, it is noted that the *primary allottees of CPAL and PML* had acted as front entities who subscribed to the shares of CPAL and PML at huge premium with a dubious plan and premeditated arrangement and artifice. Further the same premium was used to issue large number of bonus shares by CPAL and PML at unrealistic ratio of 1:55 and 1:65 respectively. In view of these facts and circumstances, I find that the *primary allottees of CPAL and PML* had acted in concert and they were part of the scheme, plan, device and/ or artifice employed in this matter, and also carried out manipulative transactions in securities or have misused the securities market and have violated provisions of the SEBI Act or the PFUTP Regulations. I, therefore, find no merits in the contention of these noticees, in this regard.

B. Kailash Auto Group II: Signature Dealtrade Pvt. Ltd.:

22. In the *Kailash Auto Group II*, only Signature Dealtrade Pvt. Ltd. has made submissions. The noticee has contended that it was not part of any scheme, plan, device and/ or artifice employed either in a SEBI case, or any other case of tax evasion. The noticee has also denied that it had carried out manipulative transactions in securities or have misused the securities market and have not violated provisions of the SEBI Act or the PFUTP Regulations.
23. In this regard, the *interim order* has alleged that “*certain entities related/connected to Kailash Auto Group I and Kailash Auto Group II were found to be the net buyers to the beneficiaries and thereby created artificial demand for the supply of shares from beneficiaries.*” I note the allegation has been levelled on the basis of the inter-relationship/ connections as is apparent from the Know Your Client (KYC) details, bank statements, off-market transactions amongst themselves and the information available on the website maintained by the Ministry of Corporate Affairs (“MCA”). In addition, certain entities of *Kailash Auto Group I and Kailash Auto Group II* were found to be the top buyers in *Patch - 2* of the examination period. Such entities were found connected amongst themselves. Thus, the homogenous trading pattern across the entities of

Kailash Auto Group I and Kailash Auto Group II, prima facie, indicates that they were acting in concert and had a pre-defined role to play in the *modus operandi*/ scheme of things as detailed in the *interim order*.

24. In the instant case, it is noted that the entities of *Kailash Auto Group I and Kailash Auto Group II* had acted as buyers when the *beneficiaries* were selling the shares of *kailash auto*. It is apparent from the trading pattern that these entities had bought shares at high prices to provide exit to beneficiaries indicates existence of certain premeditated arrangement among the *beneficiaries* and these entities of *Kailash Auto Group I and Kailash Auto Group II*. Moreover, as already discussed in the *interim order*, had the entities of *Kailash Auto Group I and Kailash Auto Group II* not traded/ dealt in the scrip of *Kailash Auto* during the relevant time, it would not have been possible for the *beneficiaries* to offload/ sell the shares in large numbers at such price in a stock that hardly had any intrinsic value thereby contributing to artificial volume in the scrip as well.
25. Further, the inquiry has revealed that majority of the entities of *Kailash Auto Group I and Kailash Auto Group II* are for namesake and have no other business except for being used for the purpose of routing of funds, providing exit to the *beneficiaries*, etc. The said finding was derived from the analysis of bank statements of certain entities of *Kailash Auto Group I and Kailash Auto Group II* where funds have been received by these entities either in the form of cash deposit or from other sources which are then subsequently transferred to the brokers for dealing in securities. Such pattern of fund flow not only indicates that their trading was being funded but also highlights the routing of funds through layers in order to hide the actual source or origin or purpose.
26. In view of these facts and circumstances, I find that the entities of *Kailash Auto Group I and Kailash Auto Group II* had acted in concert and had misused the exchange platform to provide exit to the *beneficiaries* at a high price thereby enabling these *beneficiaries* to reap the benefit of tax exemption available under the Income Tax Act, as discussed in the *interim order*. Further, by such trading artificial volume and liquidity was created in the scrip. I, therefore, find no merits in the contention of the noticee, in this regard.

C. LTP Contributors: Bharat Bagri HUF:

27. I now proceed to deal with submissions of one of the LTP contributors, namely, Bharat Bagri HUF. From the *interim order* dated March 29, 2016, it is noted that during *Patch - 1*, on January 17, 2013, the scrip opened at ₹11/- and closed at ₹36.25/- on June 04, 2013, i.e., recorded a substantial price rise of 230%. During said period, the scrip was traded only on 36 trading days with an average trading volume of 280 shares per day and an average of 3 trades per day. It was observed that price of the scrip increased from ₹11 to ₹36.25 mainly through first trades on 27 instances. Out of these 27 instances, Shyam Kanhey Lal Vyas and Bharat

Bagri (HUF) established new high price on 13 instances. Out of total price rise of ₹25.75/-, the contribution of these two entities in establishing new high price was ₹14.57/- which constitutes 56.58% of the total new high price.

28. The noticee has contended that it had no connections with any of the other entities mentioned in the *interim order*. Further, the noticee has also contended that they have made miniscule investments in the scrip of *Kailash Auto* and subsequently sold the shares yielding minimal profits. It has been said that there were large number of other buyers in the scrip of *Kailash Auto* which enticed them to place purchase order in scrip and they had started buying in the scrip after observing the price and volume movement. It has been further said that the investment in the scrip was a technical decision based on demand and supply, in the momentum style of trading and not on fundamentals of *Kailash Auto*.
29. In the facts and circumstance of the case, I am of the view that the roles played by the entities trading in the *Patch - 1* to artificially increase the price prior to amalgamation in order to give huge profitable exit to *beneficiaries* as detailed in the *interim order* of March 29 needs to be seen holistically. This is further strengthened by the fact that restrictions have been imposed on some of the LTP contributors in several interim orders issued by SEBI on the same *modus operandi*. Hence, the role played by the noticee in *Patch - 1* need to be seen in the backdrop of scale and size of operations undertaken by helping the beneficiaries to generate fictitious LTCG by showing that the source of their income was legitimate. The details of contribution to price rise by the LTP contributors during *Patch - 1* has been detailed hereunder:

Table 2: Contribution to price rise in Patch 1 by the LTP contributors

Client Name	Positive Contribution (in %)	Total Positive Contribution (in ₹)	Positive LTP Contribution of the Client as a buyer	Count of LTP
Shyam Kanhey Lal Vyas	44.08	25.75	11.35	09
Bharat Bagri (HUF)	12.50	25.75	3.22	04
Total		56.58	25.75	14.57

30. Upon further examination of the trading data pertaining to the price rise period (i.e., *Patch - 1*), it has been revealed that the buy orders were placed in the trading system at upper circuit, at the beginning of the trading session. I further note that the counterparty client to the trades of these two entities (in most of the cases) were *PML*, Overall Vincom Pvt. Ltd. (forming part of *recipients of PML shares*) and Bholebaba Suppliers Pvt. Ltd. (an entity from *Kailash Auto Group I*). The scrip was an illiquid one at that point of time and there was negligible trading therein at that time. Considering this fact and that the connected entities of *Kailash Auto* were counter parties to the trades of these two entities, it was *prima facie* observed that these two entities alongwith *PML*, Overall Vincom Pvt. Ltd. and Bholebaba Suppliers Pvt. Ltd. manipulated the price of the scrip during *Patch - 1* under a premeditated

plan.

31. I note that noticee has not satisfactorily demonstrated the reasons for quoting price at upper circuit through their first trades for illiquid scrip like *Kailash Auto* which had resulted into unusual price increase in the scrip. Hence, their trading in the scrip is suspicious in nature and same requires further investigation. In this background, I reject the submissions of Bharat Bagri HUF that its trading did not have an impact on the price rise of the scrip of *Kailash Auto*.

D. Beneficiaries:

32. I may now consider the preliminary contentions of the *beneficiaries*. The *beneficiaries* have raised a common contention that there is nothing in the *interim order* to allege or demonstrate any wrong-doing on their part. They have further contended that they are not connected/ related to *Kailash Auto*/ its promoters/ with any entities who are alleged to be indulged in the price manipulation/ with the entities who have provided exit to the *beneficiaries*. The noticees forming part of the *beneficiaries* have also contended that they had invested in the scrip of *CPAL* and *PML* from their own funds as genuine investors considering it a good investment opportunity. It has been further contended that they invested in the shares of *CPAL* and *PML* as its objectives and growth prospects were looking great, especially in light of commitment by *CPAL* and *PML* of infusing fresh capital and revitalizing the business of the *Kailash Auto*. Hence, with the hope that *Kailash Auto* will do well in future, as an optimistic investor, they took the risk of investing in the shares of *CPAL* and *PML*. Thus they had invested in the scrip after seeing the positive turnaround/ development in the *CPAL* and *PML*. Hence they cannot be said to be involved in any dubious plan or artifice as alleged in the *interim order*.
33. In this regard, it may be noted that *beneficiaries* have invested in such closely held companies that report no value of assets and make loss or negligible value of profit since their incorporation. Also, the news of amalgamation of *CPAL* and *PML* with *kailash auto* was first announced at public portal, i.e., BSE website, by *Kaialsh Auto* on November 22, 2012, however the news of amalgamation was known to privileged *beneficiaries* at the time when they were investing in the scrip of *CPAL* and *PML*, as at the time of investing in *CPAL* and *PML* the *beneficiaries* were hoping that *Kaialsh Auto* would do well in future. This shows that *beneficiaries* had invested in *CPAL* and *PML* not considering the operating performance of *CPAL* or *PML* but with the intent to use shares of *CPAL* and *PML* to receive shares of *Kaialsh Auto* and further use the market platform to exit. It shows that *beneficiaries* are acting in concert. I, therefore, reject the contention of the *beneficiaries* in this regard.
34. Some of the *beneficiaries* have claimed that they were approached by certain individuals to make investment in the *CPAL* and *PML*. I am unable to accept the explanation of the

beneficiaries that they invested in the shares of CPAL and PML on the advice/ tips of some random sources. I note that such persons/ entities have failed to give any plausible explanation as to how *recipients of CPAL shares and recipients of PML shares* had transferred shares of CPAL and PML at/ around ₹1/- each to them, when same shares were allotted by CPAL and PML to primary allottees at huge premium and costing the *primary allottees* ₹600/- or ₹700/- for each such allotted shares. This could only be possible if the *beneficiaries* had nexus and prior understanding with the *recipients of CPAL shares and recipients of PML shares* with regard to the plan, device and artifice as *prima facie* found in the *interim order*. I note that the *beneficiaries* have not been able to furnish any satisfactory documentary evidence to explain how they were approached for buying shares of CPAL and PML. As brought out in the *interim order*, ultimate gainer of the whole scheme in question is the *beneficiaries* as such they cannot pretend to be oblivious to the scheme/ plan/ device/ artifice in question.

35. It is intriguing to note that, inspite of the tarnished track record, prior to amalgamation, price of the scrip of *Kailash Auto* had increased from ₹11/- to ₹36.25/ in 36 trading days with average trading volume of 280 shares per day. Thereafter, *beneficiaries* including the noticees were able to offload their shares at high price, continuously for a period of around 15-16 months. In any normal market, a sudden supply if not matched by similar demand leads to price fall. However, in this case, the *beneficiaries* were able to offload shares at higher price because of the presence of *Kailash Auto Group I and Kailash Auto Group II* who had acted as buyers when the *beneficiaries* were selling their shares. The circumstances *prima facie* shows that in the whole process, artificial demand was created by the entities of the *Kailash Auto Group I and Kailash Auto Group II* so as to absorb the supply from the *beneficiaries*. Thus as a result of the trading between *beneficiaries* and entities of *Kailash Auto Group I and Kailash Auto Group II* in *Patch - 2*, the average trading volume in the scrip had increased by 5,57,752.10%, i.e., (5577 times) as compared to *Patch-1*. Such increase in volume was mainly on account of matched trading amongst *Kailash Auto Group I and Kailash Auto Group II* entities and *beneficiaries*. This artificial volume in the scrip created by the *beneficiaries* including the Noticees and the entities of *Kailash Auto Group I and Kailash Auto Group II* had the potential to induce any genuine investor to invest in the scrip without knowing the scheme of operations deployed, as in the instant case. Such facts and circumstances reinforces the finding in the *interim order* that *beneficiaries* and entities of the *Kailash Auto Group I and Kailash Auto Group II* had used the securities market system to artificially increase volume for making illegal gains and to convert ill-gotten gains into genuine one.
36. Certain *beneficiaries* have contended that they are not aware that entities of the *Kailash Auto Group I and Kailash Auto Group II* had provided profitable exit to them and no adverse inference can be drawn against them based on the same. I agree to the submission of the noticees that exchange platform is an anonymous trading platform where counter party is not known but the said theory does not fit in the instant case when it is observed that the

noticees dealing in the scrip were driven by the common objective of the scheme. The objective of the scheme was aptly brought out in the *interim order* which says that the scheme was orchestrated to provide LTCG benefit to the *beneficiaries* where *Kailash Auto* acted as a platform for issue of equity shares pursuant to amalgamation and the entities of *Kailash Auto Group I and Kailash Auto Group II* as exit providers to provided exit to these *beneficiaries* so that the they can claim LTCG and convert their unaccounted income into accounted one. The *modus operandi* deployed in the instant case is such that the entities involved in the scheme necessarily have to act in concert, under a pre-mediated plan to achieve the end objective of the scheme. Admittedly, none of the noticees have denied to have dealt in the scrip during the examination period as mentioned in the *interim order* and when the acts and deeds of these noticees are seen holistically with the facts and circumstances of this case, it shows that they are acting in nexus.

37. Certain *beneficiaries* have contended that SEBI did not provide reasons of restraining only 118 *beneficiaries*, who had sold 5,00,000 or more equity shares of *Kailash Auto*, from dealing in the securities market while allowing the remaining *beneficiaries*, who sold less than 5,00,000 shares of *Kailash Auto*, to continues to deal in the securities market. In this regard it may be noted that the *interim order* vide paragraph no. 27 clearly mentions that detailed investigation of the entire scheme, plan, device and artifice employed by concerned entities is necessary and same is presently being carried out. The fact that entities who have sold less than 5,00,000 equity shares of *Kailash Auto* have been left out of the *interim order* does not signify that they are outside the scope of SEBI's investigation or have been exonerated. At the stage of *interim order*, directions were issued against entities considering their role/involvement in the scheme and the impact on the securities market, as observed.
38. The schemes, plan, device and artifice employed in this case, apart from being a possible case of money laundering or tax evasion which could be seen by the concerned law enforcement agencies separately, is *prima facie* also a fraud in the securities market inasmuch as it involves manipulative transactions in securities and misuse of the securities market. The manipulation in the traded volume and price of the scrip by a group of connected entities has the potential to induce gullible and genuine investors to trade in the scrip and harm them. As such the acts and omissions of *Kailash Auto Group I and Kailash Auto Group II* and *beneficiaries* are 'fraudulent' as defined under Regulation 2(1)(c) of the PFUTP Regulations and are in contravention of the provisions of Regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(a), (b), (e) and (g) of PFUTP Regulations and Section 12A(a), (b) and (c) of the SEBI Act, 1992. I, therefore, reject the contention of the *beneficiaries* in this regard.
39. Having dealt with the common contention of the *beneficiaries*, I proceed to deal with the specific submissions of the *beneficiaries*.

I. Anshu Agarwal and Divesh Kumar Agarwal:

40. Anshu Agarwal and Divesh Kumar Agarwal contended that they were not aware of CPAL acquiring control over *Kailash Auto* as alleged in the *interim order* and mere fact that CPAL acquired control over *Kailash Auto* in the year 2012 had no bearing on their acquiring the shares of CPAL and consequent selling of *Kailash Auto*. These noticees had acquired the shares of CPAL from Sanskrit Vincom Pvt. Ltd. and contended that they were not aware as to when and how Sanskrit Vincom had acquired the shares of the CPAL. The vendor through whom these noticees had purchased the shares was neither an allottee in preferential allotment nor in bonus shares issued by CPAL. In this regard, the Noticees have failed to give any plausible reasoning/ explanation about the vendor acting as a "contact point" through whom they purchased the shares of CPAL. Further, they acquired shares from Sanskrit Vincom Pvt. Ltd. who is directly/ indirectly connected to CPAL. Also these noticees have failed to explain the reason to invest in such closely held companies that had reported nil value of assets and made loss or negligible value of profit since their incorporation. I do not see any merit in their argument and therefore, I am compelled to reject these contentions of these noticees.

II. Chandadevi Sarda, Rajesh Ramswarup Sarda HUF, Rajesh Ramswarup Sarda and Veena Rajesh Sarda

41. Chandadevi Sarda, Rajesh Ramswarup Sarda HUF, Rajesh Ramswarup Sarda and Veena Rajesh Sarda had purchased shares of CPAL from Ritudhara Vincom Private Limited in an off-market transaction at the price of ₹1 per share for a total consideration of ₹80,00,000. They have contended that unlike other beneficiaries, the noticees had not purchased the shares of CPAL from any connected entity as Ritudhara Vincom Private Limited has not been mentioned or debbarred by the *interim order*. In this regard, it is pertinent to rely on paragraph 5(o) of the *interim order* that reads as under:

"During the Financial Year 2011-12, both CPAL and PML, were converted from private limited companies to public unlisted companies. From the list of shareholders of PML and CPAL as on September 2012, as available on the MCA website, it was observed that the shares of CPAL and PML were held by 1100 entities and 680 entities respectively. Thus, shares of CPAL and PML were transferred from the above mentioned recipients of CPAL shares and recipients of PML shares to 1100 entities and 680 entities respectively. Further, as per the records of the Registrar to Issue and Share Transfer Agent of Kailash Auto, as on record date (June 08, 2013) shares of CPAL were held by 1972 entities and shares of PML were held by 2058 entities."

42. It is clear from the plain reading of the above paragraph that the *recipients of CPAL shares and recipients of PML shares* had transferred shares of CPAL and PML to large number of *beneficiaries*. In the instant case, Ritudhara Vincom Private Limited acted similar to recipients of CPAL shares. It is noted that one of the directors of Ritudhara Vincom Private Limited, Rudra Prasad Banerjee, also acting as a recipient of CPAL Shares, has been debarred in the

interim order. Therefore, considering the discussion, it can *prima facie* be inferred that the acts and deeds of the noticees are fraudulent and in contravention of the provisions of the Securities Laws.

43. In the instant case, the *interim order* has reasonably highlighted about the *modus operandi* wherein *CPAL* and *PML* and their primary allottees engineered a web of transfers and retransfers of funds and shares amongst themselves in a bid to create a facade of infusion of funds by way of private placement of shares when actually there was actually no infusion of funds for the large part of the private placement and thereafter the *recipients of CPAL shares and recipients of PML shares* acted as conduit to facilitate the transfer of shares of *CPAL* and *PML* to the *beneficiaries*. Further, *beneficiaries* with the aid of the entities of *Kailash Auto Group I and II* misused the stock exchange mechanism to exit at a high price and book illegitimate gains with no payment of taxes as LTCG is exempted from tax under Section 10(38) of the Income Tax Act, 1961. Thus, as detailed above, the noticees, while acting under dubious plan, device and artifice have traded in the shares of *Kailash Auto* that *prima facie* led to the creation of artificial volume in the scrip by misuse of securities market system.
44. I, therefore, find that, at this stage, the following 54 noticees have failed to give any plausible reasoning/ explanation for their acts and omissions as described in the *interim order* and have not been able to make out a *prima facie* case for revocation of the *interim order*. I, therefore, in this case, reject the prayers of such noticees for setting aside the *interim order* or for complete removal of restraint imposed by it. I, therefore, do not have any reasons to change or revoke the ad *interim* findings as against them.

Table 3

Sl.No.	Noticee	PAN
1	Solty Dealtrade Pvt. Ltd.	AAPCS2058G
2	Needful Projects Advisory Pvt. Ltd.	AADCN4461C
3	Timeless Suppliers Pvt. Ltd.	AADCT6337P
4	Signature Dealtrade Pvt. Ltd.	AAOCS9059G
5	Bharat Bagri HUF	AADHB8488A
6	Anshu Agarwal	ABYPA0389D
7	Divesh Kumar Agarwal	AEBPA2498H
8	Dhiraj Kumar Khetan	AAWPK2634C
9	Vikrant Kumar Khetan	AAWPK2621F
10	Mahesh Kumar Khetan	AAWPK2620E
11	Gobinda Chandra Pattanaik	AJEPP2669K
12	Manju Rathi	AECPR9207C
13	Prakash Chandra Rathi	AECPR9208P

14	Gaurav Goel	ADYPG0561H
15	Gautam Goel	ADYPG0564C
16	Hitesh Ramprakash Chhatwal	ADSPC4388E
17	Sweety Manglani	AGAPM6677R
18	Lakshmi Devi	AADPD8227B
19	Aashish Kumar Lalwani	ACLPL9914H
20	Saurabh Mittal	ADDPM5232A
21	Kapil Mittal	ADDPM5233B
22	Rajesh Ramswarup Sarda HUF	AADHS2286M
23	Veena Rajesh Sarda	AHAPS4880R
24	Chandadevi Ramswarup Sarda	AHAPS4924L
25	Rajesh Ramswarup Sarda	AHAPS4925M
26	Ramasamy Santhamani	ALJPS3141G
27	OmPrakash Agrawa IHuf	AAAHO5501J
28	Omprakash Agrawal	ACIPA3823H
29	Rahul Agrawal	AEXPA9696R
30	Vikas Agrawal	AFBPA9883M
31	Shilpa Agrawal	AHQPK3316G
32	Nikita Agrawal	AOTPA7379H
33	Ashish Singhania	BFWPS0721Q
34	Pratapsinh Ganpatrao Jadhav	AAYPJ1003C
35	Charanjeet Singh	ADWPS5227Q
36	Geetha Jain	ADEPG7030K
37	Abhishek Agarwal	AFTPA0939C
38	Sangeeta Sachdev	AODPS3657L
39	Dilipkumar S Jain	AFEPJ8660G
40	SherSingh Agarwal HUF	AAHS9623K
41	Dinesh Shersingh Agarwal	AAAPA5629D
42	Shersingh Agarwal	AADPA3198C
43	Dharam Paul	ACGPP5575P
44	Neeraj Kumar	AGVPK7036P
45	Satish Jain	AAFPJ6142B
46	Sandhya Jain	AAGPJ0189B
47	Sunil Kumar Jain	AAHPJ7196B
48	Sarda/ Ghanshyam Sarda HUF	AAEHS0587A
49	Uma Sarda	AKBPS4386G
50	Rajendra Neminath Shete	AACHR9687J
51	Nilavati Niminath Shete	ACZPS8442H
52	Manisha Rajendra Shete	ACZPS8514N

53	Rajendra Neminath Shete	ACZPS8515P
54	Niranjan Rajendra Shete	BOTPS0314D

45. Having dealt with the contentions of the noticees as aforesaid, I note that the majority of these have raised concern over challenges in running their activities on account of ban and consequent freezing of their demat accounts. Many of these entities have pleaded for removal of the restraint imposed vide the *interim order* or atleast allow them partial relief of permitting trading in securities other than those involved in this case. It is worth mentioning that the case in hand is peculiar as large number of entities has been restrained and the ongoing investigation in the matter may take time in completion. I have been conscious that the restraint order should not cause, disproportionate hardship or avoidable loss to the portfolio of the noticees. Hence at this stage, considering the facts and circumstances of this case and submissions/ oral arguments made before me, I deem it appropriate to provide relaxations so as to address the issues of the personal and business exigencies or other liquidity problems.

46. Considering the above, I, in exercise of the powers conferred upon me under Section 19 of the SEBI Act, read with Sections 11(1), 11(4) and 11B thereof, hereby confirm the directions issued vide the *ad interim ex-parte order* dated March 29, 2016 as against the aforesaid 54 noticees except that they can:-

- (a). enter into delivery based transactions in cash segment in the securities covered in NSE Nifty 500 Index scrips and/ or S&P BSE 500 scrips;
- (b). subscribe to units of the mutual funds including through SIP and redeem the units of the mutual funds so subscribed;
- (c). deal in Debt/ Government Securities;
- (d). invest in ETF;
- (e). avail the benefits of corporate actions like rights issue, bonus issue, stock split, dividend, etc.; and
- (f). tender the shares lying in their demat account in any open offer/ delisting offer under the relevant regulations of SEBI.

47. Further, considering the business and personal exigencies and liquidity problems submitted by the these noticees, I allow them further relaxations/ reliefs as under:-

- (a). They are permitted to sell the securities held in the demat account as on the date of the *interim order*, other than the shares of the companies which are suspended from trading by the concerned stock exchange, in orderly manner under the supervision of the stock exchanges so as not to disturb the market equilibrium and deposit the sale proceeds in an interest bearing escrow account with a nationalized bank.

(b). They may deal with or utilize the sale proceeds lying in the aforesaid escrow account under the supervision of the concerned stock exchange as provided under:-

- (i) the sale proceeds may be utilised for investments permitted in para 46;
- (ii) upto 25% of the value of the portfolio as on the date of the *interim order* or the amount* in excess of the profit made /loss incurred or value of shares purchased to give exit, whichever is higher, may be utilized for business purposes and/or for meeting any other exigencies or address liquidity problems etc.

** The amount will include the value of portfolio in the demat account*

Explanation: For the purposes of determining the portfolio value of the entities, the value of portfolio of securities lying in the demat account(s) (individual and joint) on the date of the *interim order* after excluding the value of shares that have been suspended from trading as on the date of the communication shall be considered. For NBFCs and stock brokers the value of portfolio shall exclude the value of clients' securities lying in their demat accounts.

(c). The aforesaid reliefs shall be subject to the supervision of exchanges and depositories. The stock exchanges may use the existing mechanism available for implementing the similar *interim* relief earlier granted to some of the entities in other similar matters, for example confirmatory order in the matter of First Financial Services Limited dated August 25, 2016.

48. This order is without prejudice to any enforcement action that SEBI may deem necessary against the aforesaid *noticees* on completion of the investigation in the matter.

49. This order shall continue to be in force till further directions.

50. A copy of this order shall be served on all recognized stock exchanges and depositories to ensure compliance with the above directions.

Sd/-

DATE: October 27 , 2016

PLACE: MUMBAI

RAJEEV KUMAR AGARWAL

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA