

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: S. RAMAN, WHOLE TIME MEMBER**

ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999 in the matter of Sai Prasad Corporation Ltd. (PAN- AAQCS7428B) and its Directors, Mr. Balasaheb K. Bhapkar (PAN-AFIPB3674A), Mr. Shashank B Bhapkar (PAN-AQHPB8639H) and Mrs. Vandana B. Bhapkar (PAN -AFIPB3675B).

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1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), received certain complaints on September 23, 2013, alleging that Sai Prasad group of Companies including Sai Prasad Properties Ltd. (SPPL) and Sai Prasad Foods Ltd. (SPFL) and Sai Prasad Corporation Ltd. (hereinafter referred to as "**SPCL**") were collecting money from public in the nature of "*collective investment scheme*". The complainants also forwarded details of schemes, brochures, application form etc. with respect to the schemes/plans offered by SPCL.
 2. As a matter of preliminary inquiry into the alleged mobilization of funds by SPCL, SEBI, vide letter dated October 11, 2013, sought the following information in relation to its business activities, *viz.*-
 - i. Memorandum and Articles of Association of SPCL as filed with the Registrar of Companies (RoC).
 - ii. Contact details of designated person for corresponding with SEBI.
 - iii. Details of the past and present directors of the SPCL.
 - iv. Brochures pertaining to schemes/ offers which were made available to the public.
 - v. Copies of application forms that were required to be submitted by investors/ applicant to participate in schemes offered by SPCL.

- vi. Sample copies of the registration letter and allotment letter issued to the investors who subscribed to schemes offered by SPCL
- vii. Sample copies of the agreement letter/contract required to be entered into by investor/applicant under schemes offered by SPCL.
- viii. Details of the scheme wise amount mobilized by SPCL till date along with the number of investors under the schemes offered by SPCL.
- ix. Details of the scheme wise amount paid/redeemed by SPCL till date along with the number of investors under the schemes offered by SPCL.
- x. Certified copy of audited financial statement for the last three financial years.
- xi. Copy of Income Tax Return filed by SPCL for the last three financial years.
- xii. Details of all the bank accounts maintained by SPCL.
- xiii. List of investors alongwith their contact details.
- xiv. Details of the regulatory approvals obtained by SPCL, if any, for provision of accidental death/disability benefits to investor, under schemes offered by SPCL.
- xv. Details of any other similar scheme(s), if any, floated by SPCL or its group/associate companies.
- xvi. Details of regulatory approval/registration obtained by SPCL from any Regulatory Agency/Authority.

2.1 Vide letter dated October 30, 2013, SPCL, while denying the allegation, sought 8 weeks time to submit a detailed reply. SEBI, vide letter dated November 20, 2013 advised SPCL to submit information by December 5, 2013. In response to this, SPCL in its letter (received on December 5, 2013) once again sought a further 8 weeks time.

3. Subsequent to this, an inspection of books of accounts and other records of the group companies of SPCL, *viz.* SPPL and SPFL was ordered by SEBI on January 9, 2014 to ascertain whether they were continuing to collect funds from the public in violation of the SEBI's Order dated July 17, 2013. On analyzing the documents collected by the Inspecting Authority, it appears that SPCL has also floated a scheme/plan akin to the schemes offered by its group companies, *viz.* SPPL and SPFL and is mobilizing money from public.

4. SEBI also received a reference dated March 3, 2014 from Income Tax Department *inter alia* alleging that Sai Prasad group is collecting money from public in the name of SPCL despite SEBI order dated July 17, 2013 and that during the period April 1, 2013 to December 31, 2013, SPCL has collected money in tune of ₹ 290 crores from public.
5. Subsequent to this, SEBI, vide letter dated March 20, 2014, once again advised SPCL to furnish the requisite information. In response to this, SPCL, vide letter dated April 16, 2014 submitted the following information/documents,
 - A booklet/Rule Book containing the details of the various “*joint venture participation*” schemes offered by SPCL, terms and conditions of the schemes etc.
 - Sample copy of “*Co-venture Application Form*”,
 - Sample copy of “*JV Participation Certificate*”,
 - Sample copy of “*Agreement for Project Participation*”,
 - Copy of Annual Report for the year 2012-13,
 - Summary of the scheme wise list of “*Participants/investors*, amount collected for the year 2012-13 and 2013-14, and amount refunded.
6. SEBI received another letter dated June 25, 2014 from SPCL, wherein it was submitted "*..Board of Directors of Sai Prasad Corporation Ltd. do not want to have difference of opinion with regard to scope and applicability of CIS and are subjecting you for all purposes including you being their Regulator.....we accept you as our Regulator, since 17.7.2013, i.e. after passing of the Order by youwe also undertake to return entire money at the earliest.....*"
7. I have perused the materials available on record such as, the complaints received from investors, references from authorities like Income Tax Department, correspondence exchanged between SEBI and SPCL alongwith the documents contained therein, Report submitted by the Inspecting Authority alongwith the documents collected therein etc. In this context, the issue for determination in the instant matter is whether the mobilization of

funds by SPCL is a '*collective investment scheme*' in accordance with Section 11AA of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**").

7.1 On an examination of the material available on record, it is *prima facie* observed that:

- i. SPCL is incorporated under the Companies Act, 1956 (CIN:U70102PN2011PLC141639) on December 14, 2011 and is having its registered office in Empire Estate, Building CB – 1, Office NO. 202 & 203, Mumbai Pune Road, Chinchwad, Pune, Maharashtra – 411019.
- ii. Directors of SPCL are Mr. Balasaheb K Bhapkar, Mr. Shashank B Bhapkar and Mrs. Vandana B Bhapkar.
- iii. As per the Rule Book, the main objects of SPCL are to carry on the business of building and developing, maintaining and operating construction and development of housing projects either individually or as joint venture with any other company/ firm/ individual/ consultant whether local or foreign and to acquire, purchase, lease land for agriculture and allied operations and development of farm lands.
- iv. SPCL invites funds from public under its various schemes in the form of "*JV Participation Subscription Structure*" (JVPSS).
- v. As per the Rule Book, there are three categories of "*JVPSS*" /schemes,

"*Installment Participation Structure*" /schemes (quarterly, half yearly and yearly payments varying from 48-98 months -4 schemes; AC to DC),
 - "*One time Participation Structure*" /schemes (3 schemes for 5, 7 and 9 years; EC to GC),
 - "*Yearly Income Participation Structure*" /scheme (for 6 years JC)

One of the plans from each category is illustrated below:

a) JV Participation Subscription Structure 'AC' for 48 months/4 Yrs

Total Participation (Rs.)	JV Participation value up to 4 yrs			Expected Sum of Participation on JV Completion (Rs.)	Financial Assistance in case of accidental Death (Rs.)
	Q	HL Y	YL Y		
48,000	3,000	5,985	11,960	63,360	75,000
96,000	6,000	11,970	23,920	1,26,720	1,50,000
1,44,000	9,000	17,955	35,880	1,90,080	2,25,000
1,92,000	12,000	23,940	47,840	2,53,440	2,50,000
2,40,000	15,000	29,925	59,800	3,16,800	2,50,000

b) One Time Participation Structure 'EC' for 5 Yrs:

Participation (Rs.)	Expected Sum of Participation on JV Completion (Rs.)	Financial Assistance in case of accidental Death (Rs.)
10,000	19,500	15,000
50,000	97,500	75,000
1,00,000	1,95,000	1,50,000
2,00,000	3,90,000	2,50,000
5,00,000	9,75,000	2,50,000

c) Participation Subscription Yearly Income Structure 'JC' for 6 Yrs:

Total Participation (Rs.)	Net Payable on Every Year	Expected Sum of Participation on JV Completion (Rs.)	Financial Assistance in case of accidental Death (Rs.)
3,000	60	5,000	7,500
6,000	120	10,000	15,000
9,000	180	15,000	22,500
12,000	240	20,000	30,000
15,000	300	25,000	37,500
1,02,000	18,870	1,02,000	1,53,000

- vi. SPCL is also providing financial assistance in case of accidental death to participants.
- vii. The investors who are interested to invest in the "JV Participation Subscription Structure" are made to file a "Co-venturer Application Form" before executing the "JV Agreement" with SPCL. Following are the clauses noted from the "Co-venturer Application Form" and the "Agreement for Project Participation",

- *"WHEREAS The Company is carrying on various projects in furtherance of its business of building & developing residential & commercial Corporations and to carry on the business as promoters, builders, developers,"*
- *"AND WHEREAS the company is hereby authorized to enter into agreement for receiving project participation value, which is purely, based on mutual understanding and established relationship with the co-venturer in such business domain.",*
- *"AND WHEREAS the company has launched various projects for joint venture participation/ subscription structuring for different periods in pursuance of rules & regulations made thereof indicating the expected realization of participation value on completion of the said projects and offered the compensation to the co-venturers in case of unforeseen eventualities if any".*
- *"AND WHEREAS Company is issuing the Joint Venture Participation certificates against the contribution received for participation value for utilizing the same in various projects and for various periods as indicated in the structuring of the company and the party of the Second part came to know about PROJECT, ITS STAGES, NATURE AND PERIOD OF PARTICIPATION IN VARIOUS STAGESAND WAY AND AS AGREED FOR PARTICIPATION IN COMPANY AND TO JOIN AS A PARTICIPATENT with a view to carry out and complete the projects. The party of the second part has meeting(s) with the company and discussed the PROJECT(S) PARTICIPATION AND ITS NATURE IN DETAIL AND OFFERED THEIR PARTICIPATION to enter into this Joint Venture agreement".*
- *The party of the second part have agreed to contribute participation value with the Company a sum of Rs. _____ (Rupees_____ only) towards Participation of the JV Certificate no _____ in category _____ as per the expected sum of participation value under the Project of the company is payable to the extent of Rs. _____ or there about and the party of the second part shall contribute such further amounts as agreed from time to time for carrying out the said work and the amounts will be treated as a participation contributed by the co-ventures to the project(s) of the Company as prescribed in the participation structure repayable to the co-venturers of the second part as per terms and conditions of the JV Certificate, Guidelines & Agreement of the company. (clause 2)*
- *The company would look after the financial side of the projects as well as look after the administration of the business and the party of the second part shall also look into the aspects of development of the specific projects and it is also agreed that the co-ventures shall not have any right on the shares or share capital of the company or to interfere with the projects other*

than the participated project or the management and the policies of the company In other words, it is the company and its' board of directors who alone have sole and absolute discretionary powers under the Companies laws for all other projects and businesses.(Clause 3)

- *All the tangible and intangible assets of the Cimpany including the goodwill, stock in trade, benefits of business licenses....etc will be in the name of the companyand joint ventureres shall have no right or lien on title and interest in connection therewith. .(Clause 6)*
- *At the end of the completion of the projects/term period of participation, whichever is earlier, expected sum of participation value or nearby thereoff would be payable to the co-venturers in the said project(Clause 7)*
- *That the company reserves the rights to review and make necessary amendments of this participation structure of projects under consideration. (Clause 8)*
- *That through this Agreement the Company has offered, being collateral security for realization of amount in the said project(s) as agreed, issued letter of allocation of land with a ratio of Rs. 12000 of participation equal to 500 sq.ft of undivided land.....and this ratio can be changed/alterd solely at the discretion of Company.....Further the company reserves the right of area of allocation depending on availability of land at the time of the agreement... (Clause 9)*
- *.....that in case the company is unable to repay participation value, then the company would help the joint venturer to dispose off the allocated land at the written request of the co-venturer through the process of law. (Clause 10)*
- *It is agreed by & between the parties that this agreement for Project participation shall not be treated partnership with the Company by party of the second part nor Deposit and/or loan to the Company. Once repayment of participation value is made to the party of the second part at any time including end of the term period and/or completion of the project participated, then this agreement along with allocation letter will automatically stand cancelled. Then party of the second part will not have any claim/ rights against the Project and / or Company (Clause 15)*

viii. It is observed from the aforesaid clause (clause 9) regarding the allotment of units of land, that the units of land are allotted only as a "collateral security", and SPCL has

discretion to change/alter the ratio and area of allocation. The land/plot can be disposed of only with the help of SPCL. Such disposal is possible only in case SPCL is unable to repay the participation value.

- ix. The table containing the scheme- wise amount mobilized by and repaid to investors furnished by SPCL, vide its letter dated April 16, 2014 are reproduced as under:

Scheme	No of JV participant	Amount mobilized (2012-2013)	Amount mobilized (2013-2014)	Amount Repaid (2013-2014)	No of JV participant refunded
AC	9290	7020315	36328326	-	0
BC	183281	16820540	925226857	-	0
CC	148697	34659256	933180786	19136	2
DC	2699	841335	11022365	-	0
EC	3210	37040590	30465020	9000	1
FC	170	1080000	2130000	-	0
GC	166	1065000	1720000	-	0
HC	286	-	29182320	993104	214
IC	4788	-	360817260	-	0
JC	40006	1272684000	450842580	208876296	22686
LC	63352	-	2002573260	-	0
TOTAL	455945	1,37,12,11,036	4,78,34,88,774	20,98,97,536	22903

- x. From the above table, it is noted that SPCL has mobilized an amount of ₹137.12 crores from the investors during the year 2012-2013. On perusal of the Annual Report 2012-2013, submitted by SPCL, it is observed that the said amount of ₹137.12 crores is reflected as "*Project Participation Contribution*" under the head "*other long term liabilities*" in the Balance Sheet as at 31-Mar-2013. It is further noted from the above table that the amount mobilized by SPCL, has increased from ₹ 137.12 crores (during 2012-2013), to ₹ 478.35 crores (during 2013-2014).

8. The aforementioned features of the so-called "*JV Participation Subscription Structures*" offered by SPCL appear to be a "*scheme*" rather than "*Joint Venture Participation*". In view of this, the aforementioned details of the "*JVPSS*"/*scheme* offered by SPCL, have to be considered in light of Section 11AA of the SEBI Act. The aforesaid Section 11AA, which provides for the conditions to determine whether a scheme or arrangement is a '*collective investment scheme*', reads as follows:

"(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) shall be a

collective investment scheme.

(2) *Any scheme or arrangement made or offered by any company under which,*

- (i) *the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement;*
- (ii) *the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement;*
- (iii) *the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;*
- (iv) *the investors do not have day to day control over the management and operation of the scheme or arrangement."*

8.1 In the context of the abovementioned Section 11AA of the SEBI Act, the "JVPSS"/scheme offered by SPCL, is examined as under:

- i. *The contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement.*

SPCL, by way of its various "JVPSS"/schemes, raises money by issuing "JV Participation Certificate" to the "Co-venturers"/investors. As per Clause 2 of the "Agreement for Project Participation", ".....the party of the second part shall contribute such further amounts as agreed from time to time for carrying out the said work and the amounts will be treated as a participation contributed by the co-ventures to the project(s) of the Company as prescribed in the participation structure repayable to the co-venturers of the second part as per terms and conditions of the JV Certificate, Guidelines & Agreement of the company. This indicates that the contributions collected from the "co-venturers"/investors are towards their participation in the "JVPSS"/schemes, which depending on the nature of the scheme, are repayable along with an assured return after the term period. It is also noted that SPCL, for the purpose of soliciting funds from public, has opened a number of "Associate Service Centres" which are spread across 19 States of the country including the states of Maharashtra, Gujarat, Orissa, Tamil Nadu, Rajasthan, Karnataka, Jharkand, Chattisgarh, Madhya Pradesh etc. The "Agreement for Project Participation", specifically stipulates that

the "co-venturer"/investors shall not have any right/claim against the project or SPCL and once repayment of participation value is made to the "co-venturer"/investor, the agreement shall cease to exist automatically. The participation value collected from the "co-venturers"/investors in the form of monthly instalments or onetime payment are pooled and utilized by SPCL for the purpose of the "JVPSS"/scheme. I, therefore, find that the instant "scheme"/plan satisfies the first condition stipulated in Section 11AA(2)(i) of the SEBI Act that the contributions or payments made by the investors are pooled and utilized for the purpose of the scheme.

- ii. *The contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement.*

It is observed that SPCL also undertakes to pay an "expected sum of participation on JV completion"/ estimated returns on maturity as per the terms agreed by the "co-venturers"/investors. In this context, it is noted from the Table mentioned at Paragraph No. 7.1 (v) regarding the various "JVPSS"/schemes offered by SPCL, that if a "co-venturer"/investor invested ₹48,000/- in "JV Participation Subscription Structure - AC", assured return offered after 48 months is ₹63,360/- along with an element of financial assistance in case of accidental death. Similarly, it can be seen from table at the same paragraph under the head "One Time Participation Structure 'EC' for 5 Yrs" that if a "co-venturer"/investor invested ₹10,000/-, then the assured return offered is ₹19,500/- along with financial assistance in case of accidental death. Depending upon the quantum of amount invested, varying amounts are offered as returns in different plans as stated in the abovementioned table. This indicates that the contribution was made by the "co-venturer"/investor with a view to receive profit or income, and hence the second condition in section 11AA (2) (ii) of the SEBI Act, which stipulates that the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property is also fulfilled.

- iii. *The property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors, and*
- iv. *The investors do not have day-to-day control over the management and operation of the scheme or arrangement.*

On examination of the various clauses of the agreement, it is noticed that SPCL manages the financial aspects as well as the administrative aspects of "JVPSS"/scheme. It is also observed from the various clauses in the agreement that the property of SPCL shall be used exclusively for the business of SPCL and the "co-venturers"/investors shall not have any right, title and interest in connection therewith. At the end of the term period, "expected sum of participation value"/assured returns would be payable to the "co-venturers"/investors and once repayment is made, the agreement is automatically cancelled. Further, it is noted that the allotment of units of land is only as a "collateral security", and can be disposed of only with the help of SPCL. Such disposal is possible only in case SPCL is unable to repay the participation value. The said units of land have not been distinctly identified by SPCL, either in the "Agreement for Project Participation", or in the "JV Participation Certificate". These particulars *prima facie* indicate that the property, contribution or investment forming part of the scheme, is managed by SPCL on behalf of the investors. Clause 9 of the Agreement states that the company reserves the right of area of allocation depending on availability of land at the time of agreement and as per Clause 8 of the agreement, SPCL reserves its right to review and make necessary amendments of the "JVPSS"/scheme. The above clauses of agreement clearly indicate that "co-venturers"/investors do not have day to day control over the management and operation of the schemes and do not have any choice in respect of the land involved in the scheme. I, therefore, find that the instant "JVPSS"/Scheme also satisfies the conditions stipulated in Section 11AA(2)(iii) and (iv) of the SEBI Act.

8.2 From the above analysis, I find that the "JVPSS"/scheme offered by SPCL with a resultant promise of returns when considered in light of peculiar characteristics and features of such scheme, as discussed in the preceding paragraphs, *prima facie* satisfies all four conditions specified in Section 11AA (2) of the SEBI Act. Therefore, I am of the view that SPCL is

engaged in the fund mobilizing activity from public, which is in the nature of a '*collective investment scheme*' as defined in Section 11AA of the SEBI Act.

9. Having found that SPCL is carrying out fund mobilization by way of collective investment activities, I proceed further to examine the reply made by SPCL in respect of its "JV PSS"/scheme. SPCL in its reply dated April 16, 2014 *inter alia* submitted "*There is no investor in the company whereas whosoever participates in the joint venture projects are Co-Venturer-Associates*". It is observed that the categorization of any scheme as "*joint venture*" is not determinative of its nature and character; the same has to be determined with reference to the terms and conditions of such scheme, which express the intention of the parties. In this context, the views of Hon'ble Supreme Court of India in **New Horizons Ltd. Vs Union of India** (1995(1) SSC 478) regarding the nature of a joint venture may be noted. The Hon'ble S.C. observed "*The expression 'Joint venture'.. connotes a legal entity in the nature of a partnership engaged in the joint undertaking of a particular transaction for mutual profit or an association of persons or companies jointly undertaking some commercial enterprise wherein all contribute assets and share risks. It requires a community of interest in the performance of the subject matter, a right to direct and govern the policy in connections therewith, and duty, which may be altered by agreement, to share both in profit and losses*". In the instant scheme, it is noted that there is no agreement to share profits and losses on the basis of "*community of interest*" as stated by Hon'ble Supreme Court. It is more of an arrangement that provides for monetary return in the form of "*Expected Sum of Participation on JV Completion*", specified in the various "JVPSS"/schemes, as reproduced in the forgoing paragraph No. 7.1 (v). Under the instant "JVPSS"/Scheme offered by SPCL, there is also no element of shared control. SPCL exercises complete managerial and administrative control over the "JVPSS"/scheme offered therein. From this, it is evident that the fund mobilizing activity of SPCL, promising an estimated returns/profit, has been camouflaged by it by way of a "*Joint Venture Participation*" for the development of land only to mislead and attract investment from the general public, which in essence satisfies all the conditions of a '*collective investment scheme*' as defined in Section 11AA of the SEBI Act.

- 9.1** In this context, it is relevant to refer to the observations of the Hon'ble Supreme Court of India in the matter of *P.G.F Ltd. & Ors. vs. UOI & Anr.* (MANU/SC/0247/2013) (hereinafter referred to as "PGFL Case"). While analyzing the scope of sub-section (2) of Section 11AA, the Hon'ble Court held that: "*..sub-section (2) of Section 11 AA, which defines a collective investment scheme disclose that it is not restricted to any particular commercial activity such as in a shop or any other commercial establishment or even agricultural operation or transportation or shipping or entertainment industry etc. The definition only seeks to ascertain and identify any scheme or arrangement, irrespective of the nature of business, which attracts investors to invest their funds at the instance of someone else who comes forward to promote such scheme or arrangement in any field and such scheme or arrangement provides for the various consequences to result there from.*"
- 10.** In view of the aforementioned observations of the Hon'ble Supreme Court of India in the PGFL Case, and in view of the abovementioned analysis and examination, I find that the activity of fund mobilization by SPCL with a resultant promise of returns clearly falls within the ambit of '*collective investment schemes*' as defined in Section 11AA of the SEBI Act.
- 11.** I note that in terms of Section 12(1B) of the SEBI Act, "*no person shall sponsor or cause to be sponsored or cause to be carried on a 'collective investment scheme' unless he obtains a certificate of registration from the Board in accordance with the regulations*". Regulation 3 of the CIS Regulations, provides that no person other than a Collective Investment Management Company which has obtained a certificate under the CIS Regulations shall carry on or sponsor or launch a '*CIS*'. Therefore, the launching of any '*CIS*' by any '*person*' without obtaining the certificate of registration in terms of the provisions of the CIS Regulations is in contravention of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations.
- 11.1** Upon a consideration of the aforementioned paragraphs, I find that the scheme offered by SPCL in the name of its joint venture participation business for the development of land is nothing but a smokescreen for its fund mobilizing activity. I am of the view that SPCL is *prima facie* engaged in fund mobilizing activity from the public, by floating/sponsoring/launching '*collective investment scheme*' as defined in Section 11AA of the SEBI Act without obtaining a certificate of registration from SEBI as required under Section 12(1B) of the SEBI

Act and the CIS Regulations. Considering the fact that no prior registration was obtained by SPCL in respect of the aforesaid activities in the nature of collective investment scheme, I am of the view that SPCL and its aforesaid directors are illegally mobilizing funds from the public, which *prima facie* amounts to a fraudulent practice in terms of Regulation 4(2) (t) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practice Relating to Securities Market) Regulations, 2003.

12. It is relevant to note that the three Sai Prasad Group Companies *viz.* Sai Prasad Properties Ltd. (SPPL) Sai Prasad Foods Ltd. (SPFL) and Sai Prasad Corporation Ltd. (SPCL) have common directors, *viz.* Mr. Balasaheb K Bhapkar, Mr. Shashank B Bhapkar and Mrs. Vandana B Bhapkar. On July 17, 2013, SEBI, vide separate orders in the matter of SPPL and SPFL, *inter alia* directed, the aforesaid directors, "*not to collect any more money from investors under the existing schemes; not to launch any new schemes or plan*", until further orders, on the basis of *prima facie* findings that the said directors engaged in fund mobilizing activity from the public by floating '*collective investment schemes*', without obtaining a certificate of registration from SEBI. We have come across some copies of "*JV Participation Certificate*" issued by SPCL to its "*co-venturers*"/investors, wherein the date of commencement of the "*JV Participation*" was mentioned as December 26, 2013 and December 31, 2013. This clearly indicates that the aforesaid directors *viz.* Mr. Balasaheb K Bhapkar, Mr. Shashank B Bhapkar and Mrs. Vandana B Bhapkar are continuing to collect funds from the public (this time through SPCL), wantonly flouting the directions issued by SEBI on July 17, 2013. The amount collected by SPCL during the year 2012-2013, from the public was ₹137.12 crores, which increased to ₹ 478.35 crores during the year 2013-2014 as mentioned in paragraph No. 7(ix) above. It is thus very clear that the directors *viz.* Mr. Balasaheb K Bhapkar, Mr. Shashank B Bhapkar and Mrs. Vandana B Bhapkar, who are also directors of SPCL have been collecting funds from the public, in deliberate and flagrant disregard to the directions issued by SEBI vide Orders dated July 17, 2013.

13. Protecting the interests of investors is the first and foremost mandate for SEBI. Under the circumstances, SEBI has to take immediate steps to prevent activities of companies or entities

defrauding investors and damaging the orderly development of the securities market. In order to ensure that SPCL and its directors/promoters do not collect further funds under its schemes and to safeguard the assets/property acquired by SPCL and its promoters/directors from the funds of the investing public until full facts and materials are brought and final decision is taken in the matter, it becomes necessary for SEBI to take urgent preventive action by way of this interim measure. In the light of the same, I find no other alternative but to take recourse through an interim measure against SPCL and its directors viz. Mr. Balasaheb K Bhapkar, Mr. Shashank B Bhapkar and Mrs. Vandana B Bhapkar for preventing them from further carrying on with the fund mobilizing activity.

14. In view of the forgoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4) and 11B of the SEBI Act, 1992 read with Regulation 65 of CIS Regulations, hereby direct Sai Prasad Corporation Ltd. (PAN- AAQCS7428B) and its directors, viz. Mr. Balasaheb K. Bhapkar (PAN-AFIPB3674A), Mr. Shashank B Bhapkar (PAN-AQHPB8639H) and Mrs. Vandana B. Bhapkar (PAN -AFIPB3675B):-

- a. not to collect any money from investors from its existing "JV Participation Structure"/scheme;*
- b. not to launch any new schemes or plans or float any new companies to raise fresh moneys;*
- c. to immediately submit the full inventory of the assets owned by SPCL out of the amounts collected from the "co-venturers"/investors under its existing "JV Participation Structure"/schemes;*
- d. not to dispose of any of the properties or alienate the assets of the existing "JV Participation Structure"/scheme;*
- e. not to divert any funds raised from public at large, kept in bank account(s) and/or in the custody of the company;*
- f. to furnish all the information sought by SEBI with regard to scheme wise list of investors and their contact numbers and addresses along with the details of amount mobilized and refunded.*

15. The above directions shall take effect immediately and shall be in force until further orders.

16. The *prima facie* observations contained in this Order are made on the basis of the material available on record. This order is without prejudice to the right of SEBI to take any other action that may be initiated against Sai Prasad Corporation Ltd., its promoters and Directors in accordance with law.
17. SPCL and its abovementioned directors shall, within 15 days from the date of receipt of this Order, file their reply, if any, to the *prima facie* observations made herein. SPCL and its aforesaid directors may also indicate, in such reply, whether they wish to avail an opportunity of personal hearing in the matter.

Date : July 22, 2014
Place: Mumbai

S RAMAN
WHOLE TIME MEMBER
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