

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

ORDER

Directions under Sections 11(1), 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulations 65 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 against M/s Sai Prakash Organic Food Ltd. (PAN-AAPCS0636Q) and its promoters/directors, Mr. Pushpendra Singh Baghel (PAN-AFZPB0624B), Mrs. Pushpanjali Singh Baghel (PAN-AFZPB0557M), Mr. Ranvajay Pratap Singh Baghel (PAN-ATTPB8254D), Mr. Mragendra Singh Baghel (PAN-BKJPB6325H), Mr. Dheerendra Krishan Pratap (PAN-AXMPB0165C) and Mr. Shahendra Singh Baghel (PAN:ATTPB8244M).

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) received a complaint on May 15, 2014, regarding fund mobilization from general public by Sai Prakash group including Sai Prakash Organic Food Ltd. (hereinafter referred to as the “Sai Prakash Organic”/company). It is also alleged that the company raises fund from public by Multi-level Marketing (MLM) system and distributes around 70% of the funds collected to their “field associates”/agents. The complainant vide his subsequent e-mails *inter alia* provided the following information:

- Details of the commission structure offered by the company, which is as under:

<i>Plan</i>	<i>RD</i>	<i>FD</i>	<i>MBP</i>
<i>Upfront Commission</i>	25%	10-15%	7%
<i>Monthly Voucher</i>	20%	12%	5%
<i>CMD</i>	10%	7.50%	5%
<i>Promotee Incentive</i>	10%	5.50%	5%
<i>Special Bonanza</i>	10%	5.50%	5%

- A list of 122 agents/ field staff with their attached Customer Service Centre (CSC), Code, Name, designation and contact numbers. It is noticed that these agents were attached to CSC located in Bharatpur, Alwar, Chomu, Jaipur, Bhiwani, Yamunanagar, Roorkee, Saharanpur, Agra, Kanpur, Lucknow, Sitapur, Karaouli, Mahuwa, Mandla, Mandsaur, Rewa, Chhindwara, Dhar, Saugor, Dahod, Anuppur, Ambikapur, Chandrapur, Gondia, Kawardha, Dhamtari, Raipur, Rajnandgaon, Gadchiroli, Gumla, Janjgir, Korba, Raigarh,

Amrawati, Pachore, Rourkela, Berhampur, Bhawanipatna, Lohardaga, Ranchi, Sheorinarayan, Simdega, Umerkote, Berhampur, Samhalpur.

- Copies of some circulars of 2013, issued by Sai Prakash Financial Advisory Services P. Ltd., which shows the commission/incentives being offered for targets achieved by agents.
- Copy of an unsigned agreement on stamp paper (some pages) between Sai Prakash Organic Foods Ltd. and Sai Prakash Financial Advisory Services P. Ltd.
- Soft copy of investor's data (including their address & fund collection) of Sai Prakash Organic from 2010-11 to 2013-14.

2. As a matter of preliminary examination into the alleged fund mobilization by Sai Prakash Organic, SEBI examined the details of the company available on MCA website. Based on the information available at the website, including the details regarding the registered office of the company and details of its directors/promoters/share holders, SEBI vide letter dated June 03, 2013 (copy marked to its directors) *inter alia* sought the following information from Sai Prakash Organic, in relation to their business activities:

- a. Memorandum and Articles of Associations (MoA and AoA) of the Company as filed with the Registrar of Companies (RoC).
- b. Details of the past and present directors of the company (including name, address, PAN and contact details (Email/fax/contact numbers) of the directors).
- c. Original Brochures pertaining to the schemes/ offers which were made available to the public from time to time.
- d. Copies of applications forms that are required to be submitted by investors/applicants to participate in the schemes.
- e. Sample copies of the registration letter and allotment letter issued to the investors who subscribed to the schemes.
- f. Sample copies of the agreement letter/ contract required to be entered into by investor/applicant under the schemes.
- g. Details of the scheme wise amount mobilized by the company from start till date along with the number of investors under the schemes.
- h. Details of all investors of the company, including name & address, details about Scheme/Plan Number, branch/ CSC address, booking amount by investor, commission

to agent(s), amount received by the company, amount to be repaid by the company, date of maturity (all these data duly certified by the company in hard & soft format)

- i. List of all branches with their address.
- j. List of all the properties acquired by the company from the funds of investors.
- k. Also, whether the company has transferred the title of these properties in favour of investors. If yes, details be provided.
- l. The current status of each of these properties including if any of these properties has been hypothecated/ pledged
- m. Details of commission structure including incentives payable to agents/ business associate of the company.
- n. Information, whether the amount deposited by investor towards plans are received in gross amount by the company or is received after deduction of commission by agent/ business associate.
- o. The details of arrangement/ agreement including Composite Business Agreement for agency entered by the company with SaiPrakash Financial Advisory Services P. Ltd. and Thind Finance Ltd.
- p. Certified copy of audited financial statement for the FY 2010-11, 2011-12 and 2012-13. Copy of detailed trial balance for 2013-14 and from April 2014 till date duly certified by the company.
- q. Copy of Income Tax Return filed by the company from FY 2009-10 till date.
- r. Details of any other similar scheme(s), if any, floated by the company or the group/associates company or companies in which the directors are also directors.
- s. Whether the company/ directors have been charged by Police of any State wherein it operates in respect of complaints made by investors of the company. If yes, provide copy of all FIRs, all charge-sheets filed by police and all court order(s) against the company/ directors.

2.1 The copies of the aforesaid letter were also forwarded to the directors of Sai Prakash Organic.

- 3.** Subsequently, a letter dated June 14, 2014 was received from the company seeking additional time of three weeks to submit the desired information. Considering the request, SEBI allowed time till June 30, 2014. In response, the company vide letter dated June 24, 2014 provided partial reply.

Subsequently, clarifications were sought by SEBI, vide letter dated July 11, 2014 and July 24, 2014. These were provided by the company vide letter dated July 19, 2014 and August 02, 2014. Following are the documents provided by Sai Prakash Organic:

- MoA and AoA of the company,
- Details of the past and present directors of the company,
- "Brochure" containing the schemes of the company,
- "Pamphlet" giving details of its bye-laws for investment arrangements,
- Copy of "Application Form" to be submitted by the investor for joining the "Joint Ventureship Scheme",
- A few copies of an application forms filed by an investor with the company,
- Copy of "Certificate" issued by the company to the investor,
- List of investors of the company (including name, address, plan name, maturity date, branch name etc.) as on March 31, 2014.
- Details of scheme-wise amount mobilized by the company from 2010-11, 2011-12, 2012-13 and 2013-2014,

3.1 The company vide the aforesaid letters, *inter alia* provided the following information:

- The company has been incorporated with the primary objective to promote organic agriculture/ farming in collaboration with Indian farmers,
- The company does not have any branch network,
- The funds are collected through own employees/ offices,
- The company informed that it had purchased and developed agricultural farms in Ballhod Village, District Umaria, Madhya Pradesh,
- An amount to the tune of ₹6.94 Cr., collected by Sai Prakash Organic from the investors has been invested in a group company, *viz.* Sai Prakash Telecommunication Ltd.
- The company also informed that title of property acquired from funds of investors has not been transferred to them. Further, it is contended that properties of the company are not hypothecated/ pledged.
- One of the directors of the company, Mr. Ranvajay Singh Baghel, by an affidavit dated August 01, 2014, has stated the following:
 - Company collects deposits from investors in gross and has not paid any commission to any agents or business associates.

- No agreement signed by the company with Sai Prakash Financial Advisory Services P. Ltd. and Thind Finance Ltd. have been implemented so far.

4. Sai Prakash Organic did not provide relevant details/information/documents including the copies of agreement entered into with the investors in respect of their scheme, sought by SEBI vide several letters dated July 11, 2014, July 21, 2014, etc.
5. The documents and material available on record such as, complaints received by SEBI along with the documents contained therein; correspondence exchanged between SEBI and Sai Prakash Organic along with the documents contained therein; the submissions made by Sai Prakash Organic; etc. have been perused. The issue for determination in the instant matter is whether the mobilization of funds by Sai Prakash Organic is a 'collective investment scheme' in accordance with Section 11AA of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**").

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

- i. Sai Prakash Organic Food Ltd. (CIN No. U01122RJ2010PLC032361) was incorporated on July 13, 2010. The Registered Office of the company is at: 401, 413, Royal World, Sansar Chandra Road, Jaipur (Rajasthan)-302001. The paid up capital of the company is ₹5,00,000/-. The details of the directors of the company are:-

Serial No.	Name of the Directors	Address	Date of ceasing as director
1.	Mr. Ranvajay Pratap Singh Baghel	Semarpakha Pondi, Beohari, Shahdol, 484774, Madhya Pradesh	Present Director (<i>from March 15, 2011 onwards</i>)
2.	Mr. Mragendra Singh Baghel	103, Semarpakha, gram. Reusa Tehsil, Beohari Shahdol, 484774, Madhya Pradesh	Present Director (<i>from March 15, 2011 onwards</i>)
3.	Mr. Dheerendra Krishan Pratap	103, Semarpakha Redasa, Byaahari, Shahdol, 484775, Madhya Pradesh.	Present Director (<i>from March 15, 2011 onwards</i>)
4.	Mr. Pushendra Singh Baghel	B -60, Sector-44, P.S. Sector 39, TehsilDadri, gautam Budh Nagar, Noida, 201301 (U.P.)	Past Director (<i>from July 13, 2010 to June 14, 2011</i>)
5.	Mrs. Pushpanjali Singh Baghel	B -60, Sector-44, P.S. Sector 39, TehsilDadri, gautam Budh Nagar, Noida, 201301 (U.P.)	Past Director (<i>from July 13, 2010 to March 25, 2011</i>)
6.	Mr. Shahendra Singh Baghel	Semarpakha, Post-Podikala, Tehsil-Beohari, Shahdol-484774 (M.P.)	Past Director (<i>from July 13, 2010 to March 25, 2011</i>)

- ii. As per the MoA of the company, one of the main objects is to promote organic farming, organic agriculture, bio-technology, etc.

- iii. The "*Brochure*" containing the schemes/plans of the company indicate Sai Prakash Organic collects funds from the public through its various payment plans for their "*Joint Venturship Scheme*".
- iv. As per the sample copy of the brochure furnished by the Company, the Payment Plans offered by Sai Prakash Organic were,
- **Installment plans** (OFM 6" for 72 months/ 6 years; "OFM 7" for 84 months/ 7years; "OFM 10" for 120 months/ 10 years; "OFM 20" for 240 months/ 20 years).
 - **Single Installment Plans** (SIP OFS 6" for 72 months/ 6 years; "SIP OFS 9" for 108 months/ 9 years)

A sample of these plans are given below:-

IPP Plan of M6- 72 months (6 years)

No. of units*	Total Participation (Rs.)	Participation Value				Expected return of participation (Rs.)	Accidental Death Compensation (Rs.)
		M	Q	HLV	YLY		
1	12000	168	500	990	1960	18600	18000
2	24000	336	1000	1980	3920	37200	36000
3	36000	504	1500	2970	5880	55800	54000
4	48000	672	2000	3960	7840	74400	72000
5	60000	840	2500	4950	9800	93000	90000
6	72000	1008	3000	5940	11760	111600	108000
7	84000	1176	3500	6930	13720	130200	125000
8	96000	1344	4000	7920	15680	148800	125000
9	108000	1512	4500	8910	17640	167400	125000
10	120000	1680	5000	9900	19600	186000	125000
11	132000	1848	5500	10890	21560	204600	125000
12	144000	2016	6000	11880	23520	223200	125000

*1 unit is equal to 500 sq. ft. area of land

Single Installment Plan "SIP OFS 9-108 months" (9 years)

No. of Units	Total Participation (Rs.)	Expected Return of Participation (Rs.)	Accidental Death Compensation (Rs.)
0.5	6000	18600	9000
1.0	12000	37200	18000
1.5	18000	55800	27000
2.0	24000	74400	36000
2.5	30000	93000	45000
3.0	36000	111600	54000
3.5	42000	130200	63000
4.0	48000	148800	72000
4.5	54000	167400	81000
5.0	60000	186000	90000
5.5	66000	204600	99000
6.0	72000	223200	108000

- v. In addition to the "*expected return of participation*" after the end of the agreement period, Sai Prakash Organic also offers accidental death compensation.
- vi. The "*joint venture customers*"/investors who are interested in the "*Joint Venturship Scheme*" of Sai Prakash Organic are made to file an "*Customer Application Form*" with Sai Prakash Organic. The said application form contains basic details of the applicant (like name, address etc.), plan details (Payment Plan number, term of plan, consideration, mode of payment, maturity date, amount of installments etc.). Following are some of the clauses noted from the "*Terms and Conditions*" of the "*Application Form*":
- "*The Company shall issue certificate on the basis of the Application Form....*
 - "*Joint venture (s) shall be repaid on maturity of terms only*"
- vii. It is observed that the scheme offered by Sai Prakash Organic is operated on the basis of the "*Bye-laws for Investment Arrangements*" contained in the "*Pamphlet*", furnished by Sai Prakash Organic. Following clauses are noted from the said *Pamphlet*";:

"Investment Objective

2.1 The sum contributed by the investors/members under the schemes shall be utilized by the company for any of the following business activities:

- *promote organic farming,*
- *purchasing and developing agriculture farms,*
- *produce, process, refine, buy and sell consumer food items,*
- *investment in companies dealing with agriculture produce of its members (producer company) ..*
- *any other business activities that the board of the company decide in the best interest of the company.*

3.1 The board of the company will be set up a committee for formulation of schemes, to be known as Scheme Formulation Committee (SFC)

Contents of the scheme

4.1 The scheme to be formulated by SFC shall have the following contents:

- *objective of the scheme*
- *tenure of the scheme*
- *Indicative return of the scheme*
- *limit of funds to be collected*
- *modes of allocation of funds*
- *repayment mechanisms*

- documents/agreement to be executed with the investors/members

5.1 *The contributions to be made by the investors of the schemes shall preferably be accepted by way of cheques or drafts. In case, the money is received by cash, the same shall be deposited in the bank account of the company*

5.2 *To facilitate contribution by the investors/members, the company will open various branches across the country. At the locations it is not possible to open branches., the company may appoint agents on commission basis for collection of money under the schemes.*

5.4 *On receiving the contribution from the investors, the company will issue an acknowledgment/certificate for the investment.*

5.5 *The company will execute an agreement in name of "Agreement for Joint Venture Association" with the investors/members.*

5.7 *The money collected under the schemes shall be invested only for the purpose of the scheme*

5.8 *The proportion of allocation of funds to be invested on various assets or other investment options may vary on the discretion of the board.*

7.1 *The company will make the repayment only at the time of maturity of the investments.*

11.1 *These bye-laws shall act as a general guide for the company in formation, implementation and operation of the schemes and shall not confer any right to the investors*

11.2 *The company shall supply a copy of the bye-laws to the investors at the time of issuing the certificate/acknowledgement of investment."*

viii. As per the aforesaid pamphlet containing "Bye-laws for Investment Arrangements", the "joint venture customers"/investors who are interested in the "Joint Venturship Scheme" offered by Sai Prakash Organic are made to execute an "Agreement for Joint Venture Association" with Sai Prakash Organic. It is, however noted that Sai Prakash Organic has not furnished the copy of "Agreement for Joint Venture Association" (as sought SEBI vide letter dated July 11, 2014).

ix. On receiving the contribution from the "joint venture customer"/investor, after filing the "Customer Application Form", Sai Prakash Organic issues a "Certificate" to the investor wherein details of Reg. No. & Date; Plan No./term, mode of payment, consideration amount, installment of subscription payable, subscription due date, expected sum payable on expiry of term, date of last payment, expiry date, agency code, name & address of customer, number of units, nominee name & relationship etc. are mentioned. It is noted that the said certificate states that it is issued subject to the "General Terms and Conditions" printed overleaf and Terms and conditions as per "Rule Book". It is however, noted that the copies of certificates furnished by the company were without aforesaid the terms and conditions.

- x. The scheme-wise amount mobilized by the company, (from the details as furnished by the company), is reproduced below:-

Plan No./ financial year	2010-11		2011-12		2012-13		2013-14	
	No. of investors	Amount (Rs.)	No. of investors	Amount (Rs.)	No. of investors	Amount (Rs.)	No. of investors	Amount (Rs.)
IPP OFM-6 yrs	5541	6011252	5511	8813450	5511	9523560	5511	9523560
IPP OFM 7- yrs	577	1802848	577	2764088	577	2764088	577	2764088
OI s/sl (66 mths.)- 100000 single	3	300000	3	300000	8	800000	8	800000
SIP OFS 6 yrs	664	13586900	1108	33586900	1108	33485900	1108	33485900
SIP OFS 9 yrs	399	8106000	1178	28809000	1178	28809000	1178	28809000
Total		29807000	8377	74202438	8382	75383548	8382	75383548

- xi. An examination of the investor's data provided by the complainant shows the year-wise fund mobilization as below:-

Years	Number of investors	Amount deposited by investors (₹)
As on March 31, 2011	41,309	26,58,50,866
As on March 31, 2012	98,508	67,02,97,362
As on March 31, 2013	1,10,602	86,02,75,685
As on March 31, 2014	1,12,325	99,62,30,908

- xii. A perusal of the balance sheets provided by the company shows the fund mobilization and major investment as below:-

	As on March 31, 2011 (in ₹)	As on March 31, 2012	As on March 31, 2013	As on March 31, 2014 (provisional)
Advance from customers	2,98,07,000	7,42,02,437.57	7,53,92,547.57	7,50,94,547.57
Land (Fixed Assets)	33,85,485	43,58,355	75,28,685.00	79,78,685.00
Loan given:-				
• SaiPrakash Telecommunication Ltd.	65,00,000	6,78,37,901	6,92,37,901.00	6,94,27,901.00
• Sai Prakash Properties Development Ltd.	41,00,000	0	25,41,704.13	0
• Pushpanjali Singh Baghel	0	0	5,13,000.00	0

- xiii. Sai Prakash Organic vide letter dated June 24, 2014 informed that they do not have any branches. It is however, observed from the "*List of investors as on 31.03.2014*" furnished by the company, that names of several branches of Sai Prakash Organic are mentioned in the said list.
- xiv. It is further, noted from the affidavit filed by the director of Sai Prakash Organic (on behalf of the company), as mentioned in Paragraph No. 3.1 that the company collect deposits from investors through own employees/offices in gross and have not paid any commission to any agents or business associates. It is however, observed that the copies of "*Customer Application Form*" and "*Certificate*" furnished by the company contain columns to indicate details of the agents (name, code etc.).
6. The aforementioned features of the so-called "*Joint Ventureship Scheme*" offered by Sai Prakash Organic 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) or sub-section (2A) shall be a collective investment scheme.

Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under the exemptions from CIS sub-section (3), involving a corpus amount of one hundred Crore rupees or more shall be deemed to be a collective investment scheme.

(2) Any scheme or arrangement made or offered by any person 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."

6.1 In the context of the abovementioned Section 11AA of the SEBI Act, the “Scheme” offered by Sai Prakash Organic 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.

As noted from the "brochure", "Customer Application Form", sample "Certificate" and various clauses of the "Bye-laws for Investment Arrangements", it is clear that the company is collecting funds from general public towards its "Joint Ventureship Scheme" through various Payment Plans as detailed in Paragraph No.5.1 (iv) above. The amount so collected from the public is treated as a contribution made by the investors to the company in the participation plans of the company repayable to the "joint venture customer"/investor at the time of maturity of the investments. The "joint venture customer"/investor is offered an "expected return of participation"/profit as per the "Certificate" issued by the company.

It is observed from the balance sheet of the Company that funds received from investors are pooled together as "Advance from customers". It is also mentioned in the "Bye-laws for Investment Arrangements", "The money collected from the investors shall be invested or utilized only for the purpose of the schemes" (Clause 5.7). This indicates amount mobilized from the public is pooled and utilized for the so-called "Joint Ventureship Scheme" which offers an "expected sum payable"/profit at the end of the term period.

In view of the aforesaid, it is clear that the instant 'scheme' satisfies the first condition of "pooling of contribution or payments", stipulated in Section 11AA(2)(i) of the SEBI Act.

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.

From the various Payment Plans of the "Joint Ventureship Scheme", offered by Sai Prakash Organic, it is observed that in case of the Single Installment Plan "SIP OFS 9-108 months" for 9 years", for the "Participation Amount" of ₹6000/-, the investor is offered an "expected return of Participation"/profit/return of ₹18,600/-, after 9years/108 months. Thus, it is apparent that contributions by the "joint venture customers"/investors (whether by installments or lump sum payment) are made to such scheme or arrangement with a view to receive "expected return of participation"/profit from such scheme or arrangement. It is also evident that to attract general

public, compensation in case of accidental death is provided by the company. I therefore, find that the instant scheme satisfies the second condition stipulated in Section 11AA(2)(ii) of the SEBI Act.

- 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.*

It is apparent from "Brochure", "Bye-laws for Investment Arrangements", and the "Certificate" that the contributions by "joint venture customers"/investors (whether by instalment or lump sum payment) that contributions by customer (whether by instalment or lump sum payment) are given to Sai Prakash Organic, who in turn manages these funds on behalf of investors during agreed term of plan. Following clauses in the "Application Form", "Bye-laws for Investment Arrangements", and the "Certificate" indicate that contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed by Sai Prakash Organic, on behalf of the investors and the investors do not have day-to-day control over the management and operation of the scheme or arrangement,

- *"The sum contributed by the investors/ members made under the scheme shall be utilized by the company for any of the following business activities:-*
 - (a) Promote organic farming.*
 - (b) Purchase and development of agriculture farms.*
 - (c) Produce, process, refine, buy and sell consumer food items.*
 - (d) Investment in companies dealing with agricultural produce of members (producer company) or company will act as a producer company.*
 - (e) Any other business activities that the board of the company decide in best interest of the company"*
- *The board of the company will be set up a committee for formulation of schemes, to be known as Scheme Formulation Committee (SFC)*
- *The contents of the scheme including objective of the scheme tenure of the scheme Indicative return of the scheme modes of allocation of funds etc are formulated by the Scheme Formulation Committee of Sai Prakash Organic*

- *These bye-laws shall act as a general guide for the company in formation, implementation and operation of the schemes and shall not confer any rights to the investor/ members."*

The aforesaid clauses indicate that the property, contribution or investment forming part of the scheme is managed by Sai Prakash Organic on behalf of the investors and the investors do not have day-to-day control over the management and operation of the *Scheme*. In view of the above, I find that the instant *scheme* satisfies the third and fourth conditions stipulated in Section 11AA(2) (iii) and (iv) of the SEBI Act, 1992.

7. The aforesaid fund mobilizing activity of the company, promising an "*expected return of participation*"/profit, has been camouflaged by Sai Prakash Organic, by way of a "*Joint Venture Association*" only to mislead and attract investment from the general public, which *prima facie* satisfies all the conditions of a '*collective investment scheme*' as defined in Section 11AA of the SEBI Act. I, therefore find that Sai Prakash Organic 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.
8. 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 SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "**CIS Regulations**") provides that no person other than a Collective Investment Management Company which has obtained a certificate under the said regulations shall carry on or sponsor or launch a '*collective investment scheme*'. Therefore, a person can launch or sponsor or cause to sponsor a '*collective investment scheme*' only if it is registered with SEBI as a Collective Investment Management Company. Therefore, the launching/ floating/ sponsoring/ causing to sponsor any '*collective investment scheme*' 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. In the instant case, since Sai Prakash Organic has launched '*collective investment scheme*' without obtaining certificate of registration from SEBI, it has contravened provisions of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations.
9. It is further noted that Mr. Ranvajay Pratap Singh Baghel, Mr. Mragendra Singh Baghel and Mr. Dheerendra Krishan Pratap are the present directors of Sai Prakash Organic and Mr. Pushendra Singh Baghel, Mrs. Pushpanjali Singh Baghel and Mr. Shahendra Singh Baghel are the past directors of the company. The activity of unauthorized mobilization of funds by sponsoring or causing to be sponsored or carrying on or causing to carry on any collective investment scheme by any person

amounts to a fraudulent practice in terms of Regulation 4(2)(t) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities Market), 2003. Considering the fact that no prior registration was obtained by Sai Prakash Organic in respect of the aforesaid activities in the nature of collective investment scheme, I am of the view that Sai Prakash Organic and its aforesaid directors/promoters 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.

- 10.** Sai Prakash Organic was advised to respond to the preliminary inquiry conducted by SEBI, through several SEBI letters dated July 11, 2014, July 24, 2014, etc. However, on all these occasions, Sai Prakash Organic, either failed to furnish complete information/documents sought by SEBI or gave misleading and contradictory replies to the queries raised by SEBI. A perusal of the "*List of Investors as on 31.03.2014*" and the "*Customer Application Form* and "*Certificate*" of the company (furnished by the company), indicate that the company has many branches across India and the funds are being collected from the public through their agents, contrary to what has been contended by Sai Prakash Organic, in their letter dated June 24, 2014 and affidavit dated August 01, 2014 (as noted in Paragraph No. 5.1 (xiii) and (xiv) above). In view of this, it is evident that the company is giving false and misleading information/documents to SEBI. In these circumstances, I am of the view that non-co-operation on the part of Sai Prakash Organic with the preliminary inquiry conducted by SEBI, when considered in the light of the abovementioned *prima facie* findings, lead to the inescapable conclusion that such refusal to furnish the information sought by SEBI was only to conceal the true nature and operation of the fund mobilizing activity.

- 10.1** It is also disconcerting that, as per the balance sheets furnished by the company, huge amounts have been lent to the group companies of Sai Prakash Organic, *viz.* Sai Prakash Telecommunication Ltd. (₹6.92 Cr.) and Sai Prakash Properties Development Ltd. (₹25.42 Lakhs). Viewed in the backdrop of the total amount raised (₹7.53 cr.), it appears that almost the entire amount raised by Sai Prakash Organic from the public has been lent to group companies. This is against their professed purpose of raising funds for "*promoting organic farming, purchasing and developing agriculture farms*" etc. (as mentioned in the pamphlet containing "*Bye-laws for Investment Arrangements*", which serve as "*a general guide for the company in formation, implementation and operation of the schemes*"). Incidentally, SEBI, vide an interim order dated December 26, 2014, *inter alia* restrained the aforesaid group company, Sai Prakash Properties Development Ltd. and its Directors/Promoters including Mr. Pushpendra Singh Baghel, Ms. Pushpanjali Singh Baghel, Mr.

Ranvajay Pratap Singh Baghel, Mr. Mragendra Singh Baghel, Mr. Dheerendra Krishan Pratap and Mr. Shahendra Singh Baghel from mobilizing funds from public. It is noteworthy that all the aforesaid six directors/promoters of Sai Prakash Properties Development Ltd. are also directors/promoters of Sai Prakash Organic.

11. 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 Sai Prakash Organic and its directors/promoters do not collect further funds under its schemes and to safeguard the assets/property acquired by Sai Prakash Organic 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 an interim measure.

12. In view of the above, I, in exercise of the powers conferred upon me under Section 11(1), 11(4) and 11B of the SEBI Act, 1992 and Regulation 65 of CIS Regulations, hereby direct M/s Sai Prakash Organic Food Ltd. (PAN- AAPCS0636Q) and its promoters/ directors, Mr. Pushpendra Singh Baghel (PAN-AFZPB0624B), Ms. Pushpanjali Singh Baghel (PAN: AFZPB0557M), Mr. Ranvajay Pratap Singh Baghel (PAN: ATTPB8254D), Mr. Mragendra Singh Baghel (PAN: BKJPB6325H), Mr. Dheerendra Krishan Pratap (PAN:AXMPB0165C) and Mr. Shahendra Singh Baghel (PAN:ATTPB8244M):

- a. not to collect any fresh moneys from investors from its existing scheme;*
- b. not to launch any new scheme/plan or float any new companies/firm to raise fresh moneys;*
- c. not to dispose of any of the properties or alienate the assets of the existing scheme;*
- d. not to divert any funds raised from public at large, to any entities, including group/associate companies, related entities, etc.;*
- e. to immediately submit the full inventory of the assets owned by Sai Prakash Organic out of the amounts collected from the "joint venture customers"/investors under its existing scheme, including bank accounts/investments, including in group/associate companies;*
- f. to furnish all the information sought by SEBI, within 15 days of the receipt of this Order, including,*
 - i. copies of agreement entered into with the "joint venture customers"/investors*
 - ii. the details of amount mobilized and refunded till date,*

- 13.** The above directions shall take effect immediately and shall be in force until further orders.
- 14.** 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 M/s. Sai Prakash Organic Food Ltd. and its Directors/Promoters in accordance with law.
- 15.** M/s. Sai Prakash Organic Food Ltd. and its abovementioned Directors/Promoters shall within 21 days from the date of receipt of this Order, file their reply, if any, to the *prima facie* observations made herein. The company and its Directors/Promoters may also indicate, in such reply, whether they wish to avail an opportunity of personal hearing in the matter.

Place: Mumbai
Date: January 6, 2015

S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA