

BEFORE THE 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 read with regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999 in respect of interim order cum show cause notice dated January 6, 2015 in the matter of Sai Prakash Organic Food Limited.

In respect of:

Sr. No.	Noticees	PAN	CIN/DIN
1	Sai Prakash Organic Food Limited	AAPCS0636Q	U01122RJ2010PLC032361
2	Pushpendra Singh Baghel	AFZPB0624B	NA
3	Pushpanjali Singh Baghel	AFZPB0557M	NA
4	Ranvajay Pratap Singh Baghel	ATTPB8254D	03538188
5	Mragendra Singh Baghel	BKJPB6325H	03544515
6	Dheerendra Krishan Pratap	AXMPB0165C	03545450
7	Shahendra Singh Baghel	ATTPB8244M	NA

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") vide an ex-parte ad-interim order dated January 6, 2015, prima facie observed that Sai Prakash Organic Food Ltd. (SPOFL) and its Directors, namely, Pushpendra Baghel, Pushpanjali Singh Baghel, Ranvajay Pratap Singh Baghel, Mragendra Singh Baghel, Dheerendra Krishan Pratap and Shahendra Singh Baghel (the company and its directors are hereinafter collectively referred to as "noticees") were involved in illegal mobilization of funds from the public through various schemes or plans for promoting organic farming, purchasing and developing agriculture farms, which were in the nature of Collective Investment Schemes ("CISs") as defined under section 11AA of the Securities and Exchange Board of India Act, 1992 (SEBI Act), without obtaining requisite certificate of registration from SEBI and thus contravened section 12(1B) of the SEBI Act and regulation 3 of the SEBI (Collective Investment Scheme) Regulations, 1992 (CIS Regulations). It was also observed that the fund mobilization activity of SPOFL through its various schemes prima facie amounted to fraudulent practice under regulation 4(2)(t) of the SEBI (Prohibition of Fraudulent

and Unfair Trade Practice Relating to Securities Market) Regulations, 2003 (PFUTP Regulations), which was brought into effect from September 06, 2013.

2. Prior to the passing of the interim order, a preliminary enquiry was conducted by SEBI into the alleged activities of mobilization of funds by the noticees. Based on the preliminary enquiry, SEBI vide interim order cum show cause notice dated January 6, 2015 issued *inter alia* the following directions against SPOFL and its then promoter/Directors:-

- not to collect any money from investors from its existing scheme or to launch any new schemes;
- to immediately submit the full inventory of the assets owned by SPOFL out of the amounts collected from the "Joint venture customer"/investors under its existing Schemes, including bank accounts/investments, including in group/associate companies;
- not to dispose of any of the properties or alienate the assets of the existing Schemes;
- not to divert any funds raised from public at large, to any entities, including group/associate companies, related entities, etc.;
- 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,

3. The said interim order came into force with immediate effect. The interim order was served on the noticees by way of paper publication. In response to the paper publication, one of the directors of the company, namely Ranvajay Pratap Singh Baghel vide letter dated November 28, 2015, submitted that :-

“With reference to your aforementioned subject regarding reply of the public notice issued by your office on 18.11.2015 it is respectfully submitted that as the Former Promoter Director of the Company is in Judicial custody since June, 2015 and all the relevant documents and server has been taken by CBI (Orissa), so it is very difficult for us to reply the public notice and therefore we humbly request you to grant a month’s time to give our detailed submissions to the aforementioned Public notice as we are expecting that Mr. Pushpendra Baghel will come out in bail in near future and so that we can submit all the desired relevant documents.”

4. Even after seeking time to file reply, none of the noticees have filed replies to the interim order-cum-SCN. Even though the noticees failed to respond to the interim order, an opportunity of personal hearing was granted to them in order to comply with the principles of natural justice and the same was scheduled on August 29, 2017. As none of the hearing notices could be served on the noticees, SEBI caused a publication on August 11, 2017 through the Pioneer (in English) and

Patrika, Bhopal Edition, Dabang Duniya, Ujjain Edition and Samaya, Sahdole Edition in Hindi regarding the personal hearing scheduled on August 29, 2017. However, even after the paper publication, none of the noticees appeared for the hearing nor submitted any reply or sought any extension. In view of the same, I am convinced that sufficient opportunities have been granted to the noticees and they are not keen to avail any opportunity of hearing in this regard. I further note that the noticees have not even filed any written reply/submission to the interim order cum show cause notice. In view of these facts and circumstances, I deem it appropriate to decide the matter *ex-parte* on the basis of material available on record.

5. I have examined the allegations levelled against the Noticees in the interim order and the other material available on record. According to the interim order, the Noticees were engaged in carrying out a “*scheme*” for promoting organic farming, purchasing and developing agriculture farms, wherein different plans were offered and money was mobilised from the public through

- Installment plans for 6 years, 7years, 10 years and 20 years,
- Single Installment plans for 6 years and 9 years.

In the interim order, after considering the available documents and material, a *prima facie* view was taken that the plans under the *scheme* in question satisfied the four tests of a collective investment scheme (CIS) as defined in section 11AA of the SEBI Act, 1992, namely (i) whether there was pooling and utilization of contributions for purposes of a scheme; (ii) whether contributions were made to the scheme by the investors with a view to receive profits, income, produce or property from such scheme; (iii) whether the contributions were managed on behalf of the investors; and (iv) whether the investors did not have day to day control over the management and operation of the scheme. I observe that the basic allegation against the Noticees is that they were involved in illegal fund mobilizing activity, without obtaining registration as a CIS and thereby violated section 12(1B) read with Section 11AA of the SEBI Act, 1992 and Regulation 3 of the CIS Regulations and Regulation 4(2)(t) of the PFUTP Regulations. As stated above, the Noticees have failed to address the *prima facie* conclusions in the interim order regarding the nature of the mobilisation of funds under various schemes to be a CIS.

6. In the backdrop of the *prima facie* findings in the interim order, I have perused the schemes that were allegedly operated by SPOFL. It is noted that the company was utilizing the amounts contributed by the investors towards ‘Schemes’ formulated by a specific ‘Scheme Formulation Committee’ by pooling the funds and investing towards objectives identified by the committee by promising returns to the investors. For review and repayment purposes there was a committee

set up by the Board of the SPOFL called the “Scheme Review Committee”. The very acts of constitution of these Committees to specifically look into pooling, investment, returns and repayment clearly indicate that the schemes bear the distinctive characteristics of CIS Schemes. In the absence of any evidence provided to refute the *prima facie* findings in the interim order, I reiterate that the activities of the company as described in the interim order constitute Collective Investment Schemes in terms of section 11AA of the SEBI and the same have been carried out by the company without seeking registration from SEBI, thereby contravening section 12(1B) of the SEBI Act read with regulation 3 of the CIS Regulations and Regulation 4(2)(t) of the PFUTP Regulations, as alleged in the interim order.

7. In order to launch or carry on the activity of CIS and mobilize public funds from such schemes, it is mandatory under law to obtain a certificate of registration from SEBI. Section 12(1B) of the SEBI Act mandates that no person, shall sponsor or cause to be sponsored or carry on or cause to be carried on any CIS unless it obtains a certificate of registration from SEBI in accordance with the CIS Regulations. Regulation 3 of the CIS Regulations provides that no person other than a Collective Investment Management Company which has obtained a certificate of registration from SEBI, under the said regulations shall carry on or sponsor or launch a 'collective investment scheme'. Regulation 4(2)(t) was inserted in the PFUTP Regulations with effect from September 06, 2013, thereby making the illegal mobilization of funds through CIS schemes a “fraud” thereunder.

8. The scheme-wise amount mobilized by the company, as informed vide its letter dated July 19, 2014 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 6 yrs	5,541	60,11,252	5,511	88,13,450	5,511	95,23,560	5,511	95,23,560
IPP OFM 7- yrs	577	18,02,848	577	2764088	577	27,64,088	577	27,64,088
66 mths-100000 single	3	3,00,000	3	300000	8	8,00,000	8	8,00,000
SIP OFS 6 yrs	664	13586900	1,108	33586900	1,108	3,34,85,900	1,108	3,34,85,900
SIP OFS 9 yrs	399	81,06,000	1,178	28809000	1,178	2,88,09,000	1,178	2,88,09,000
Total	7184	29,80,7000	8,377	7,42,02,438	8382	7,538,3,548	8,382	7,53,83,548

9. I note from the information obtained from MCA portal that Ranvajay Pratap Singh Baghel, Mragendra Singh Baghel and Dheerendra Krishan Pratap are the present directors of SPOFL. Pushendra Singh Baghel, Pushpanjali Singh Baghel and Shahendra Singh Baghel were directors from July 13, 2010 to June 14, 2011.

DIRECTIONS

10. In view of the foregoing and in the interest of investors and the securities market, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and Sections 11(1), 11B and 11(4) thereof and regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999, hereby issue the following directions:

- (a) SPOFL and its directors, namely Ranvajay Pratap Singh Baghel, Mragendra Singh Baghel, Dheerendra Krishan Pratap, Pushendra Singh Baghel, Pushpanjali Singh Baghel and Shahendra Singh Baghel (i.e. Noticee nos. 1 to 7), are jointly and severally liable to wind up SPOFL's existing collective investment schemes and refund the money collected by it under the schemes, with returns which are due to the investors as per the terms of offer within a period of three months from the date of this order. The refund shall be made through 'Bank Demand Draft' or 'Pay Order'.
- (b) Upon completion of the refund as directed above, within a further period of seven days, SPOFL and its present directors, namely Ranvajay Pratap Singh Baghel, Mragendra Singh Baghel and Dheerendra Krishan Pratap shall submit a winding up and repayment report (WRR) to SEBI in accordance with the CIS regulations. The WRR shall be supported by the proof of the trail of funds claimed to be refunded, bank account statements indicating refund to the investors and receipt from the investors acknowledging such refunds along with a certification of such repayment from two independent Chartered Accountants.
- (c) In the event of failure by SPOFL and its directors to comply with the above directions, SEBI shall initiate recovery proceedings under the SEBI Act against the Noticees.
- (d) SPOFL and its above named directors (i.e. Noticee nos. 1 to 7) shall not alienate or dispose of or sell any of the assets of SPOFL or any other asset acquired out of the funds collected from investors of SPOFL, except for the purpose of making refunds to its investors as directed above.

(e) SPOFL and its above named directors (i.e. Noticee nos. 1 to 7) shall with immediate effect be restrained from accessing the securities market and prohibited from buying, selling or otherwise dealing in securities market, directly or indirectly, till the directions for refund/repayment to investors are complied with, as directed at sub-paragraph (a) above to the satisfaction of SEBI and WRR is submitted to SEBI and for a further period of four years from the date of completion of the refund, as directed above.

(f) The above named directors of SPOFL (i.e. Noticee nos. 2 to 7) shall be restrained from holding position as directors or key managerial personnel of any listed company for a period of 4 years from the date of this Order.

11. This order shall come into force with immediate effect. A copy of this Order shall be forwarded to -

- (i) all the recognised stock exchanges and registered depositories for necessary action in compliance with the above directions; and
- (ii) the Ministry of Corporate Affairs for information.

Date: July 16, 2018

Place: Mumbai

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA