

## SECURITIES AND EXCHANGE BOARD OF INDIA

## ORDER

UNDER SECTION 11 AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND SECTION 12A OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 - IN THE MATTER OF DEALINGS IN THE SHARES OF ECO FRIENDLY FOOD PROCESSING PARK LIMITED, ESTEEM BIO ORGANIC FOOD PROCESSING LIMITED, CHANNEL NINE ENTERTAINMENT LIMITED AND HPC BIOSCIENCES LIMITED

In respect of:

S. No.	Name of Entities	PAN
<b>Companies</b>		
1.	Eco Friendly Food Processing Park Ltd.	AACCE0416B
2.	Esteem Bio Organic Food Processing Ltd.	AAACE1925D
3.	Channel Nine Entertainment Ltd.	AABCC8801H
4.	HPC Biosciences Ltd.	AABCH6762Q
<b>Directors:</b>		
5.	Ms. Sakshi Saxena, Director of HPC Biosciences Ltd.	BLRPS4522G
6.	Mr. Neeraj Mittal, Director of Eco Friendly Food Processing Park Ltd. and Esteem Bio Organic Food Processing Ltd.	AAFPM8349F
<b>Trading Group:</b>		
7.	Steady Capital Advisory Services Pvt. Ltd.	AATCS2130B
8.	Sure Portfolio Services Pvt. Ltd.	AATCS2129L
9.	River High Right Share Brokers Pvt. Ltd.	AAGCR2643P
10.	Trucklink Vinmay Trading Pvt. Ltd.	AAECT4670L
11.	Mr. Jai Kishan	APBPK8097B
12.	Mr. Shankar Lal Gupta	AKEPG0828N
13.	Surya Medi-Tech Limited	AALCS3282L
<b>Preferential allottees of shares of Esteem Bio Organic Food Processing Ltd.:</b>		
14.	Mr. Ram Avtar Gupta	AAMPG7571Q
15.	Ms. Savita Gupta	AEFPG8410F
16.	Mr. Atma Ram Khatri	ACDPR7654N
17.	Mr. Hira Lal Khatri	ADMPK9802D
18.	Mr. Rajesh Chawla	AACPC7067R
19.	Mr. Mukesh Chawla	AACPC7068A
20.	Mr. Sanjeev Verma	AADPV5705E
21.	Mr. Pawan Kumar Singhal	ADNPK1527C
22.	Pawan Kumar Singhal HUF	AADHP4727Q
23.	Ms. Reeta Singhal	ABTPS0061P

24.	Ms. Akansha Singhal	CGPPS3517P
25.	Mr. Mohit Hissaria	ABKPH4283M
26.	Mr. Satinder Paul Gupta	AAPPG2434D
27.	Mr. Prateek Gupta	AIEPG1462E
28.	Ms. Minakshi Gupta	ADUPG2221J
29.	Mr. Sahil Gupta	AGMPG0589J
30.	Ms. Neelam Gupta	AAHPG5907D
31.	Ms. Priya Gupta	AETPG5835L
32.	Mr. Nishil Gupta	AIKPG3052G
33.	Mr. Tarsem Chand Gupta	AAHPG5906C
34.	Mr. Sudarshan Kumar Sachdeva	ABAPS5155K
35.	Ms. Vijay Laxmi Sachdeva	ABAPS5157M
36.	Mr. Sanjay Sachdeva	ABBPS5022Q
37.	Mr. Anil Sachdeva	AQOPS2031B
38.	Ms. Ekta Sachdeva	BKEPS8583H
39.	Ms. Urvashi Sachdeva	DNUPS8667F
<b>Preferential allottees of shares of Eco Friendly Food Processing Park Ltd.:</b>		
40.	Ms. Sushma Bajaj	AIMPB4769K
41.	Mr. Munish Bajaj	ABHPB1469L
42.	Ms. Monika Goel	AAIPG1121A
43.	Mr. Rakesh Kumar Goel	AAPPG3572L
44.	Mr. Sandeep Narang	AAAPN2282K
45.	Ms. Tanya Narang	AQBPN5620N
46.	Ms. Bharti Batra	AEOPB3108E
47.	Mr. Navel Kishore Gupta	AETPG1792C
48.	Mr. Jagdish Chand Gupta	AGKPG9668A
49.	Mr. Mukul Gupta and Mr. Satish Kumar Gupta	ALAPG3350L
50.	Ms. Kaushalya Garg	AADPG5893L
<b>Preferential allottees of shares of Channel Nine Entertainment Ltd.:</b>		
51.	Mr. Manoj Singhal	AAHPS9299N
52.	Mr. Kapil Sachdeva	AAXPS1493G
53.	Mr. Gaurav Sachdeva	AAXPS1700Q
54.	Ms. Bhupinder Kaur	AOOPK2220E
55.	Mr. Harcharan Singh	ARRPS5413M
56.	Dinesh Agarwal HUF	AACHD5831J
57.	Mr. Shreyans Sankhwal	ALRPS8216N
58.	Mr. Arun Sankhwal	ABIPS4714N
59.	Mr. Madhu Sankhwal	ABIPS4715P
60.	Ms. Sarika Sankhwal	ARJPS5757N
61.	Mr. Rajan Sahni	ABGPS0921H
62.	Mr. Navin Sahni	ABGPS0922E

63.	Mr. V. Balsubramaniam	AAGPB1427L
64.	Ms. B Rajeshwari	AAEPR5593F
65.	Mr. Vikas Raj	ADJPR7115B
66.	Mr. Sudhir Aggarwal	AAGPA8954P
67.	Mr. Chetan Kunverjibhai Thakkar	ACNPT4287B
68.	Mr. Prithvi Sudhir Vora	APZPV0747H
69.	Mr. Sushant Muttreja	AJZPM7650C
<b>Preferential allottees of shares of HPC Biosciences Ltd.</b>		
70.	Mr. Ankur Jain	AAFPJ7614L
71.	Mr. Abhishek Jain	ADDPJ5506C
72.	Mr. Suresh Chand Jain	ADVPJ1356J
73.	Ms. Shalini Gupta	AGYPG1226G
74.	Mr. Shaleen Kumar Singh	ASPPS3078P
75.	Gaurav Garg & Family HUF	AAEHG6995E
76.	Ms. Geeta Gupta	ABUPG0904C
77.	Ms. Anjana Garg	AFBPA0663F
78.	Ms. Urmil Rathi	AAHPR9561N
79.	Ms. Anchal Rathi	AEWPA2450G
80.	Ms. Shweta Rathi	AHWPM2448P
81.	Mr. Jayanaben Nayanbhai Thakkar	ABHPT6904C
82.	Mr. Vijendra Goyal	ABRPG5287F
83.	Moran Plantation Pvt. Ltd.	AACCM0442K
84.	Parasramka Holdings Pvt. Ltd.	AACCP2436Q
85.	Ms. Anuj Maheshwari	ABCPM0456H
86.	Ms. Bimla Vij	ADQPV7816E
<b>Pre IPO Transferees in respect of shares of Eco Friendly Food Processing Park Ltd.:</b>		
87.	Mr. Ashok Batra	ABOPB8988M
88.	Mr. Prakash Agarwal Om	AAHO4138H
89.	Mr. Abhilasha Agarwal and Mr. Om Prakash Agarwal	AAEPA7336D
90.	Sanjay Agarwal HUF	AAIHS3951G
91.	Ms. Anshu Agarwal and Ms. Sanju Agarwal	ACMPA2650C
<b>Pre IPO Transferees in respect of shares of Esteem Bio Organic Food Processing Ltd.:</b>		
92.	Mr. Arun Kumar Jain	ACBPJ3957A
<b>Pre IPO Transferees in respect of shares of HPC Biosciences Ltd.:</b>		
93.	Mr. Neeraj Prakash	AAIPP1301R
94.	Ms. Mridu Prakash	AGYPP5247Q
95.	Mr. Vipul Chandra	AIHPC0099A
96.	Mr. Ramesh Chandra Saraf	AARPS2666K

97.	Ms. Madhu Saraf	AAUPS2341G
98.	Ms. Nandini Pansari	AGDPP7573L
99.	Mr. Gaurav Chandra	AGRPC3451C
100.	Mr. Sanjeev Gupta	AAHPG1456D
101.	Ms. Namita Gupta	AAMPG5487F
102.	Mr. Nitin Kumar Bardia	AFHPB4072M
103.	Mr. Nikesh Bardia	AIMPB9015E
104.	Ms. Vidushi Kothari	AOEPK7545Q
105.	Mr. Ekas Chhabra	AUKPC5480A
106.	Mr. Sagar Jain	AMNPJ8901E
107.	Mr. Vikas Gupta	AAHPG8607Q

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1. Securities and Exchange Board of India (“SEBI”) vide an *ad interim ex-parte* order dated June 29, 2015 read with Corrigendum dated January 04, 2016 (hereinafter collectively referred to as “*interim order*”) restrained 254 entities including Eco Friendly Food Processing Park Limited (hereinafter referred to as "Eco"), Esteem Bio Organic Food Processing Limited (hereinafter referred to as "Esteem"), Channel Nine Entertainment Limited (hereinafter referred to as "CNE") and HPC Biosciences Limited (hereinafter referred to as "HPC") [collectively referred to as "the scrips/the companies", listed on the Small and Medium Enterprise (“SME”) Segment of the Bombay Stock Exchange Limited ("BSE")] from accessing the securities market and further prohibited them from buying, selling or dealing in securities 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 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 facts and circumstances more particularly described therein and summarised, *inter alia*, as under:-
    - a) The aforesaid four companies had very small share capital prior to the year 2011. In the year 2011 and 2012, the companies increased their capital base by issuing shares to several entities, (hereinafter referred to as "*preferential allottees*"), by way of preferential allotment and later by issuing bonus shares. Certain *preferential allottees* transferred their shares held in the respective companies to several entities (hereinafter referred to as "*pre IPO transferees*").
    - b) Thereafter, all the four companies came out with IPOs and the entities belonging to the *Funding Group* (as defined in the *interim order*) funded substantial portion of the IPOs. The IPO proceeds of the respective IPOs were immediately routed back to the entities of the *Funding Group* by the concerned companies thereby allegedly financed their own IPO and allotted shares without receipt of consideration to the extent they returned the subscription monies to the *Funding Group* from the IPO proceeds. The *Funding Group* cumulatively

financed the subscribers in the aforesaid four companies, to the tune of ₹17.62 crore and received back ₹30.06 crore from the said companies immediately after the IPOs.

- c) The respective companies had actively concealed the deviation in utilisation of IPO proceeds as they deliberately did not make any disclosures as required under clause 46 of the SME Listing Agreement.
  - d) Once the shares were listed on the stock exchange, the *Trading Group* (as defined in the *interim order*) entities increased the prices of the scrips astronomically through manipulative trades.
  - e) The said price movement was not backed by fundamentals or any announcements made by these companies.
  - f) After the expiry of the lock-in period, the *Trading Group* entities purchased shares from the *preferential allottees* and *pre-IPO transferees* at artificially increased prices.
  - g) In the whole process, entities of the *Trading Group* provided a hugely profitable exit to the *preferential allottees* and *pre IPO transferees*.
  - h) Consequently, all the *preferential allottees* and *pre-IPO transferees* have collectively made a profit of ₹614 crore.
  - i) The funds required for purchase of shares by the *Trading Group* entities had been provided to them through layering of fund transfers from several entities including the entities belonging to the *Funding Group*.
  - j) It was therefore alleged that the *preferential allottees*, *pre IPO transferees* acting in concert with *Funding Group* and *Trading Group* have used the stock exchange system to artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one. The whole scheme could not have been possible without the involvement/connivance of the four companies, their promoters and their directors.
3. The *interim order* has alleged that the acts and omissions of the four companies, *Funding Group*, *Trading Group entities*, *preferential allottees* and *pre-IPO transferees* 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 (“PFUTP Regulations”) and are in contravention of the provisions of Regulations 3(a), (b), (c) and (d), 4(1) and 4(2)(a), (b), (c), (d), (e) and (g) thereof and section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (“SEBI Act”). This allegation against the noticees is made on the basis of following:
- (a) The noticees forming part of *Trading Group* acted as buyers to the *pre IPO transferees/ preferential allottees* thereby creating artificial demand for the supply of shares from *preferential allottees/ pre IPO transferees*.
  - (b) The noticees forming part of *Trading Group* are connected among themselves and provided hugely profitable exit to the *pre IPO transferees/ preferential allottees* in such scrips that hardly had any credential in the market.

- (c) In the process, the noticees of *Trading Group* acting in concert with the *pre IPO transferees/preferential allottees* misused the stock exchange system to provide fictitious Long Term Capital Gain (LTCG) benefit to the *preferential allottees/pre IPO transferees* so as to convert unaccounted income into accounted one with no payment of taxes as LTCG is tax exempt.
- (d) Securities market system was used to artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one.
- (e) Thus, the *preferential allotment* was used as a tool for implementation of the dubious plan, device and artifice of the *noticees* and the *preferential allottees/pre IPO transferees*.
4. Pursuant to the *interim order*, some of the noticees filed their replies in the matter. While proceedings were in progress, opportunity of inspection was afforded to noticees who had sought for the same. Information/documents which were relied upon by SEBI for passing the *interim order* were also provided to noticees who had requested.
5. The noticees seeking personal hearing were granted opportunities of personal hearings on several dates. Some of the noticees attended the personal hearings and others failed to appear in these hearings. Few of the noticees also filed additional written submissions after availing the personal hearings.
6. It is noted that the hearing notices issued to certain noticees including Steady Capital Advisory Services Pvt. Ltd., Sure Portfolio Services Pvt. Ltd., River High Right Share Brokers Pvt. Ltd., Trucklink Vinmay Trading Pvt. Ltd., Mr. Jai Kishan and Mr. Shankar Lal Gupta had returned undelivered. Therefore, newspaper advertisements communicating the date of personal hearing to such entities was issued by SEBI on January 16, 2016.
7. It is relevant to mention that SEBI has passed several interim orders in similar cases against several entities based upon prima facie findings and pending investigations in those matters. In response to such interim orders several entities filed their replies praying for revocation of order and for certain common interim reliefs pending passing of confirmatory orders. Considering the large number of entities covered in such orders (more than 1200), complexities involved in the issues such- as inter linkages of different tranches of alleged schemes, connection/relation amongst transacting parties in different tranche of scheme, it was considered appropriate to consider the facts and circumstances in totality after hearing maximum possible entities. After considering the facts and circumstances brought out by these entities who had responded to interim orders, to avoid erosion of value of securities due to volatility, maintain some investment avenues in the Capital Market such as Mutual Fund and to address the need of funds for meeting the business/ any other exigencies, all these entities were granted certain common interim reliefs, including the following:-
- (a) to sell the securities lying in their demat accounts as on the date of the respective *interim*

- order*, other than the shares of the companies which are suspended from trading by the concerned stock exchange and keep the sale proceeds in an escrow account;
- (b) to utilize such sale proceeds for the purpose of investment in mutual fund units and fixed deposits.
- (c) to utilize 25% of their portfolio value for their business purposes and/or for meeting other exigencies subject to the condition that the balance portfolio value does not go below the profit/loss made by them.
8. In the above background, vide letters dated January 15, 2016, January 19, 2016, February 29, 2016, and May, 31, 2016, the following reliefs were allowed to the noticees who had responded to the *interim order*:
- (i) *to subscribe to units of the mutual funds including through SIP and redeem the units of the mutual funds so subscribed;*
- (ii) *to avail the benefits of corporate actions like rights issue, bonus issue, stock split, dividend, etc.*
- (iii) *to sell the securities lying in their demat accounts 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 and the shares of 4 scrips in the SME segment in which the Interim order dated June 29, 2015 has been passed, 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 nationalised bank.*
- (iv) *to utilise and deal with the sale proceeds, lying in the aforesaid escrow account under the supervision of the concerned stock exchange, as provided hereunder:-*
- (a) *the sale proceeds may be kept in a fixed deposit with a nationalised bank or may be utilised for subscription to units of the mutual funds which shall always be held in the demat form and if such units are redeemed the proceeds thereof shall be credited to the aforesaid escrow account or may be utilised for subscription to the units of mutual funds;*
- (v) *The aforementioned window for sale of shares lying in respective portfolio shall be withdrawn if the Noticees execute any trade beyond those mentioned in clause (iii) above. The aforesaid reliefs shall be subject to the supervision of the stock exchanges and depositories.*
9. In addition to the above reliefs, the following 22 noticees were also allowed “*to utilise up to 25% of the value of their portfolio as on the date of the interim order for their business purposes and/or for meeting other exigencies*”.

<b>S. No.</b>	<b>PAN</b>	<b>Name</b>
1	AARPS2666K	Ramesh Chandra Saraf
2	AAUPS2341G	Madhu Saraf
3	AOEPK7545Q	Vidushi Kothari
4	AAEPR5593F	Rajeshwari
5	AAHPR9561N	Urmil Rathi

6	AAGPB1427L	V Balasubramaniam
7	AAEPR5594C	Uma B Ramesh
8	AACCE0416B	Eco Friendly Food Processing Park Limited
9	AAACE1925D	Esteem Bio Organic Food Processing Limited
10	AABCC8801H	Channel Nine Entertainment Limited
11	AABCH6762Q	HPC Biosciences Limited
12	BLRPS4522G	Sakshi Saxena
13	AAKPG5996K	Arun Kumar Gupta
14	AAIPJ3373K	Dinesh Kumar Jindal
15	AAFPM8349F	Neeraj Mittal
16	AALCS3282L	Surya Medi Tech Limited
17	AATCS2130B	Steady Capital Advisory Services Private Limited
18	AATCS2129L	Sure Portfolio Services Private Limited
19	AAGCR2643P	River High Right Share Brokers Private Limited
20	AAECT4670L	Trucklink Vinmay Trading Private Limited
21	APBPK8097B	Jai Kishan
22	AKEPG0828N	Shankar Lal Gupta

For the purposes of determining the portfolio value of the entities, it was informed to the above notices that the value of portfolio of securities lying in the demat account/s (individual and joint both) 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.

**10.** Further, specific representation of some of the notices was being separately decided on case to case basis and communicated to them separately during pendency of the proceedings for passing of confirmatory orders. The details of such specific reliefs provided are as follows:

- a) In respect of Mr. Sandeep Narang, one of the *preferential allottees* in the scrip of Eco, on request received vide letters dated December 18, 2015 and March 16, 2016, permission to transfer the shares held by him in private limited company was granted vide letter dated February 29, 2016 and May 30, 2016.
- b) In respect of Mr. Jagat Singh, one of the *pre IPO transferees* in HPC, the request from Citigroup Global Market Capital Private Limited to close the demat account which had nil balance was allowed.
- c) Mr. Anuj Maheswari has requested SEBI to defreeze the demat account no. 10823445 held

with DP-Kotak Mahindra Bank Limited and trading account held with stock broker Kotak Securities Limited (Client code: OIFQ0). The ground for making such request is that his wife is the first holder in the said demat account and she has made all her investments from her own funds. He has submitted that his wife is a working woman and has her own source of income. This request has been separately dealt with.

11. While the proceedings pursuant to the *interim order* were going on, Crimson Financial Services Limited (“Crimson”), a SEBI Registered Broker, which is not a party covered vide the *interim order*, requested SEBI to allow it to sell/square off the trades of its six clients (i.e. noticees nos. 27 to 32) in order to settle its dues. SEBI vide letter dated September 07, 2015 informed Crimson that its request could not be acceded to. Crimson, thereafter, filed an appeal before the Hon'ble Securities Appellate Tribunal ("the Hon'ble SAT"). Hon'ble SAT vide order dated October 26, 2015 directed SEBI to pass a fresh order on merits and in accordance with law after giving an opportunity of hearing to Crimson. In compliance with the directions of the Hon'ble SAT, the matter was accordingly re-considered and Crimson was afforded opportunity and its request was declined for the reasons communicated to it vide SEBI's letter dated November 26, 2015.
12. SEBI also passed *ex-parte* orders dated February 17, 2016 and June 14, 2016 in respect of 104 entities and 19 entities, respectively, as they did not respond to the *interim order* despite service of the *interim order* (including service on few noticees through public notice in newspapers as detailed in the order dated June 14, 2016), wherein the *interim* directions were confirmed *qua* such noticees. The following tables provide the names of the persons/entities covered under the above said *ex-parte* confirmatory orders:

**(a) List of persons/entities covered under the confirmatory order dated February 17, 2016:**

S. No.	PAN	Name	Category
1	AAXPS6830P	Brij Kishore Sabharwal	The entity is Promoter and Director of Eco and Esteem
2	AAAPG4116B	Vinod Kumar Garg	The entity is Director of Eco and Esteem
3	BEKPS1235N	Gajraj Singh	The entity is Promoter and Director of
4	BBAPK7304P	Mrs. Kirti	The entity is Promoter and Director of
5	AUGPS4373N	Neena Sood	The entity is Director of CNE
6	AKOPB4144J	Amar Singh Bisht	The entity is Promoter of Eco and
7	AGXPC3049G	Tarun Chauhan	The entity is Promoter and Director of
8	AXTPA8813F	Madhu Anand	The entity is Promoter and Director of
9	CSQPK1236G	Jai Kumar	The entity is Director of Esteem
10	AACCG6377M	Goldline International Pvt. Ltd	Funding Group
11	AAACA5715D	Avisha Credit Capital Pvt. Ltd	Funding Group
12	AAFCEM3345L	Mahashiv Metal And	Trading Group

13	AABCU4900D	Unite Buildcreate Pvt. Ltd.	Trading Group
14	AAGCA4053L	Accurate Buildwell Pvt. Ltd.	Trading Group
15	AAICA0771D	Ahuja Metalloys Pvt. Ltd.	Trading Group
16	AABCL3306N	Lunar Builders Pvt. Ltd.	Trading Group
17	DWOPS8186Q	Amit Kumar Saxena	Trading Group
18	AAFPM1482Q	Master Piece Infocom Pvt. Ltd.	Trading Group
19	AAICM3230H	Murlidhargiri Trading Pvt. Ltd.	Trading Group
20	AJKPY8234D	Vishal Yadav	Trading Group
21	AADCB3034D	Blue Star Impex Pvt. Ltd.	Trading Group
22	AETPG3006K	Baidya Nath Gupta	Trading Group
23	AEKPK6751Q	Santosh Kumar	Trading Group
24	APJPK8855K	Pawan Kumar Kaul	Trading Group
25	AADCC2898Q	Century Buildmart Pvt. Ltd.	Trading Group
26	DRUPS8079D	Stallion Trading Co. Pvt. Ltd.	Trading Group
27	AAOPA4656L	Rama Aggarwal	Pre IPO Transferees in Eco
28	ABVPA5824E	Sarika Aggarwal	Pre IPO Transferees in Eco
29	ADQPA4236R	Manju Aggarwal	Pre IPO Transferees in Eco
30	AKFPG3695N	Saurabh Gupta	Pre IPO Transferees in Eco
31	AAFPA8944E	Rajeev Agarwal	Pre IPO Transferees in Esteem
32	AANPJ1166B	Sandeep Jain	Pre IPO Transferees in Esteem
33	AFCPS4314N	Deepti Singhal	Pre IPO Transferees in Esteem
34	AHGPB1747A	Munesh Bansal	Pre IPO Transferees in Esteem
35	ACQPA9417R	Nikita Agarwal	Pre IPO Transferees in Esteem
36	AODPS9750A	Deepa Sejwal	Pre IPO Transferees in HPC
37	AQXPS1846B	Tejpal Singh Sejwal	Pre IPO Transferees in HPC
38	AZKPC1170A	Lokesh Chandna	Pre IPO Transferees in HPC
39	ABCPS0077L	Jagat Singh	Pre IPO Transferees in HPC
40	ABCPS0078F	Reena Kumari	Pre IPO Transferees in HPC
41	AAEPK3805B	Parveen Kumar	Pre IPO Transferees in HPC
42	AAJPK2929F	Virender Kumar	Pre IPO Transferees in HPC
43	ABJPG7690J	Rajesh Gaba	Pre IPO Transferees in HPC
44	ACBPA6440P	Archana Agarwal	Pre IPO Transferees in HPC
45	ACBPA6443Q	Deepak Agarwal	Pre IPO Transferees in HPC
46	ACMPG5924D	Dinesh Gaba	Pre IPO Transferees in HPC
47	ACMPG5926B	Anita Rani	Pre IPO Transferees in HPC
48	AALHA3711R	Amit Goyal Huf	Pre IPO Transferees in HPC
49	AALHM9796E	Manish Kataria	Pre IPO Transferees in HPC
50	AGYPG5066C	Inder Jeet Gaba	Pre IPO Transferees in HPC
51	AKEPG4655R	Yogesh Gaba	Pre IPO Transferees in HPC
52	AHWPK6613J	Bhag Kataria	Pre IPO Transferees in HPC
53	AALPD0474G	Satish Kumar Dhawan	Pre IPO Transferees in HPC
54	AVBPS6306D	Divjot Singh	Pre IPO Transferees in HPC
55	ABFPK4763L	Ajay Kumar	Pre IPO Transferees in HPC
56	AIVPJ9518R	Bhawna Aggarwal	Pre IPO Transferees in HPC
57	ABWPF2577J	Mohd Faiq	Pre IPO Transferees in HPC
58	AGFPK0518G	Anita Kukreja	Pre IPO Transferees in HPC

59	AGFPK0519H	Renu Kukerja	Pre IPO Transferees in HPC
60	AAQPJ4605G	Jai Kishan Jakhodia	Pre IPO Transferees in HPC
61	AAXPB4882G	Pardeep Bhatia	Pre IPO Transferees in HPC
62	ABBPD5416D	Daropati Devi	Pre IPO Transferees in HPC
63	ACEPK7596D	Rshmi Kataria	Pre IPO Transferees in HPC
64	AMGPM9259F	Virender Pal Singh	Pre IPO Transferees in HPC
65	AMQPA5671D	Ankit Agarwal Mainee	Pre IPO Transferees in HPC
66	AYIPA9888Q	Kritika Asseja	Pre IPO Transferees in HPC
67	AAGPK0723L	Sanjay Kariwala	Preferential Allottees in CNE
68	ABXPH1788A	Sukhinder Singh Hooda	Preferential Allottees in CNE
69	AATPS8461N	Anilsharma	Preferential Allottees in CNE
70	AAFHA5045Q	Ajay Kumar HUF	Preferential Allottees in CNE
71	AAIPA4256C	Manju Anup Agarwal	Preferential Allottees in CNE
72	AAKPG4084E	Vinita Gupta'	Preferential Allottees in CNE
73	ADNPA7732P	Kailash Chandra	Preferential Allottees in CNE
74	AHFPG7290J	Vikas Goyal Agarwal	Preferential Allottees in CNE
75	AAGPJ0443E	Rajesh Jain	Preferential Allottees in Eco
76	AMQPN9019G	Prateek Nagpal	Preferential Allottees in Eco
77	ACKPN0439N	Anuj Nagpal	Preferential Allottees in Eco
78	ACTPN4363Q	Anu Nagpal	Preferential Allottees in Eco
79	AMTPN9992M	Abheek Nagpal	Preferential Allottees in Eco
80	AALPA1253A	Sourabh Aggarwal	Preferential Allottees in HPC
81	AAOPA4655K	Kamla Aggarwal	Preferential Allottees in HPC
82	AAKPB9944J	Rajesh Bajaj	Preferential Allottees in HPC
83	AAKPB9945K	Rajiv Bajaj	Preferential Allottees in HPC
84	AATPG4540L	Sanjeev Kishore Gupta	Preferential Allottees in HPC
85	ACJPA8351R	Mohd. Arif	Preferential Allottees in HPC
86	AEAPG2172B	Pulkit Gupta	Preferential Allottees in HPC
87	ALCPA3324L	Rishab	Preferential Allottees in HPC
88	BUFPG8522D	Khushboo Kanodia	Preferential Allottees in HPC
89	CLFPK3259R	Nischint Kanodia	Preferential Allottees in HPC
90	AAAPJ3918J	Sangeeta Devi	Preferential Allottees in HPC
91	AAGHD6153D	Sanjay Goyal HUF	Preferential Allottees in HPC
92	AAOPA4653R	Satya Aggarwal	Preferential Allottees in HPC
93	AAOPA4654J	Rajan Aggarwal	Preferential Allottees in HPC
94	ADIPV6705E	Vinita	Preferential Allottees in HPC
95	AFOPG8341M	Gaurav Gupta	Preferential Allottees in HPC
96	AGPPK4328L	Sunil Kumar	Preferential Allottees in HPC
97	AHPPA6148R	Simpi Agarwal	Preferential Allottees in HPC
98	CWYPS1114B	Rahul Solanki	Preferential Allottees in HPC
99	ATEPG0959P	Vibhor Gupta	Preferential Allottees in Esteem
100	ATEPG8202F	Vanshika Gupta	Preferential Allottees in Esteem
101	AAMP2657F	Riaz Munshi	Preferential Allottees in Esteem
102	AHEPK0574C	Pawan Kansal	Preferential Allottees in Esteem
103	AJUPS9413N	Satya Narain Saria	Preferential Allottees in Esteem
104	AEEPG7895K	Nitin Kumar Gupta	Preferential Allottees in Esteem

**(b) List of persons/entities covered vide the confirmatory order dated June 14, 2016:**

S. No.	PAN	Name	Category
1	AAECA8718H	AMS Powertronic Private Limited	Funding Group
2	AIJPD7329J	Madhuker Dubey	Funding Group
3	AWWPK8525E	Satendra Kumar	Funding Group
4	ARUPK1589P	Sumit Kumar	Funding Group
5	AXFPR4439L	Ram Prakash	Funding Group
6	AAFCM3716M	Mayfair Infosolutions Pvt Ltd	Funding Group
7	ARVPG7849R	Prakash Gupta	Funding Group
8	AAACC2840D	Core Capital Services Limited	Trading Group
9	AAKCA4090M	Aavia Buildtech Private Limited	Trading Group
10	AHVPA2998M	Urvashi Ahalawat	Preferential Allottees in HPC
11	AFKPJ4680C	Asifa Jamal	Preferential Allottees in HPC
12	AQNPG3627J	Dhruv Gabba	Pre IPO Transferee in HPC
13	ACCPG9426C	Naveen Goel	Preferential Allottees in HPC
14	AAJPG3068K	Nidhi Goel And Chetan Prakash Goel	Preferential Allottees in HPC
15	AGBPG6077E	Seema Goel	Preferential Allottees in HPC
16	ACTPK8257G	Sharwan Kumar	Preferential Allottees in HPC
17	AOOPK2217F	Kuljeet Kaur	Preferential Allottees in CNE
18	ARRPS5403K	Gurcharan Singh	Preferential Allottees in CNE
19	ASRPG5473A	Abhishek Gupta	Preferential Allottees in CNE

13. Thus, out of the total 254 entities debarred vide the *interim order*, the confirmatory orders have been passed in respect of 123 entities as mentioned hereinabove. It is noted that out of remaining 131 debarred entities, 107 entities have availed the opportunities of hearing pursuant to the *interim order*. These includes entities from all groups mentioned in the *interim order*. I am of the considered view that, at this stage, a view can be taken to decide the matter qua these noticees pending hearing of other 24 noticees. Accordingly, the proceedings against 107 entities are being dealt with in this order.

14. The following remaining 24 entities have requested for opportunity of personal hearing and the same have been granted. Accordingly, the proceedings in their respect would be dealt with separately in compliance with the principles of natural justice.

S. No.	Name	PAN	Category
1	AAIPJ3373K	Dinesh Kumar Jindal	Directors/Promoters
2	AAKPG5996K	Arun Kumar Gupta	Directors/Promoters
3	AABPI1183M	Seemeen Ikram	Pre IPO Transferees in Esteem

4	AADPM9208K	Mohammad Anwar	Pre IPO Transferees in Esteem
5	AEHPT6622C	Tarannum Aamer	Pre IPO Transferees in Esteem
6	BBWPS2176R	Naz Shazia	Pre IPO Transferees in Esteem
7	ABVPG2657B	Ashok Garg	Preferential Allottees in CNE
8	ACDPA3515B	Gaurav Arya	Preferential Allottees in CNE
9	AHIPG6452D	Neeru Ashish Garg	Preferential Allottees in CNE
10	AABPA7646R	Ahmad Sadat	Preferential Allottees in Eco
11	AAMHS1255B	Sanjeev Tandon (Huf)	Preferential Allottees in Eco
12	ACQPD4748N	Umesh Kumar Danwani	Preferential Allottees in Eco
13	ADAPA8647A	Mohammad Aamer	Preferential Allottees in Eco
14	ABHPM7083M	Sangeeta Naresh Mittal	Preferential Allottees in HPC
15	AEQPM1717C	Surekha Ashok Mittal	Preferential Allottees in HPC
16	ACXPK2323H	Ajay Kumar Katta	Preferential Allottees in Esteem
17	AICPK7883R	Poonam Kansal	Preferential Allottees in Esteem
18	AKFPV6256L	Ashvin Verma	Trading Group
19	ASPPV7875F	Sunila Rai Verma	Trading Group
20	ABXPP2739D	Jitendra Ranchhodbhai Patel	Preferential Allottee in HPC
21	AAKPB9948E	Rakesh Bajaj	Preferential Allottee in HPC
22	AALPG0528Q	Naveen Gupta	Preferential Allottee in CNE
23	AAEPR5594C	Uma B Ramesh	Preferential Allottee in CNE
24	AAAPA2152R	Manvi Goenka	Preferential Allottee in CNE

15. I note that the *interim order* highlighted the profit/gain earned by the *preferential allottees/pre IPO transferees*. The details of the profit/gain earned by the *preferential allottees/pre IPO transferees* covered in this order and against whom confirmatory directions have already been passed are tabulated below:

<b>Profit made by Preferential Allottees / Pre - IPO Transferees in Eco</b>			
<b>S. No.</b>	<b>PAN</b>	<b>Name</b>	<b>Profit ( LTCG) (₹)</b>
1.	AAGPJ0443E	Rajesh Jain	157496940
2.	ABHPB1469L	Munish Bajaj	38776940
3.	ACTPN4363Q	Anu Nagpal	33618940
4.	AIMPB4769K	Sushma Bajaj	33101360
5.	ACKPN0439N	Anuj Nagpal	31696760
6.	AAPPG3572L	Rakesh Kumar Goel	28123160
7.	AMQPN9019G	Prateek Nagpal	28071380
8.	AGKPG9668A	Jagdish Chand Gupta	23955400
9.	AAIPG1121A	Monika Goel	23484700
10.	AMTPN9992M	Abheek Nagpal	21368400
11.	ALAPG3350L	Mukul Gupta & Satish Kumar Gupta	19734520

12.	ABOPB8988M	Ashok Batra	19623120
13.	AEOPB3108E	Bharti Batra	19307400
14.	AAAPN2282K	Sandeep Narang	18396860
15.	AAIHS3951G	Sanjay Agarwal Huf	18258720
16.	AQBPN5620N	Tanya Narang	17428800
17.	AAAHO4138H	Prakash Agarwal Om	17186220
18.	AAEPA7336D	Abhilasha Agarwal and Om Prakash Agarwal	17081940
19.	ABVPA5824E	Sarika Aggarwal	17059680
20.	AAOPA4656L	Rama Aggarwal	17058180
21.	ADQPA4236R	Manju Aggarwal	16835820
22.	AETPG1792C	Navel Kishore Gupta	16831680
23.	ACMPA2650C	Anshu Agarwal And Sanju Agarwal	16125000
24.	AKFPG3695N	Saurabh Gupta	14953800
25.	AADPG5893L	Kaushalya Garg	14858100
<b>Profit made by Preferential Allottees / Pre - IPO Transferees in Esteem</b>			
26.	ADMPK9802D	Hira Lal Khatri	11,00,57,560
27.	AQOPS2031B	Anil Sachdeva	8,62,07,470
28.	AEEPG7895K	Nitin Kumar Gupta	8,11,29,400
29.	ACDPR7654N	Atma Ram Khatri	6,71,98,750
30.	ABAPS5155K	Sudarshan Kumar Sachdeva	6,44,42,405
31.	CGPPS3517P	Akansha Singhal	5,38,48,740
32.	AEFPG8410F	Savita Gupta	4,83,51,000
33.	ABTPS0061P	Reeta Singhal	4,79,24,580
34.	AADHP4727Q	Pawan Kumar Singhal Huf	4,65,10,530
35.	ADNPK1527C	Pawankumar Singhal	4,58,60,010
36.	AAMPG7571Q	Ram Avtar Gupta	4,56,66,930
37.	AHEPK0574C	Pawan Kansal	4,45,12,560
38.	AIKPG3052G	Nishil Gupta	3,73,71,300
39.	AIEPG1462E	Prateek Gupta	3,58,98,120
40.	AETPG5835L	Priya Gupta	3,50,42,220
41.	AGMPG0589J	Sahil Gupta	3,50,03,490
42.	AAPPG2434D	Satinder Paul Gupta	3,47,69,130
43.	ADUPG2221J	Minakshi Gupta	3,43,25,640
44.	AAHPG5907D	Neelam Gupta	3,42,06,690
45.	ABAPS5157M	Vijay Laxmi Sachdeva	3,32,49,460
46.	ATEPG8202F	Vanshika Gupta	3,26,66,790
47.	ATEPG0959P	Vibhor Gupta	3,21,05,820
48.	ABBPS5022Q	Sanjay Sachdeva	3,20,77,180
49.	AAHPG5906C	Tarsem Chand Gupta	3,16,04,820

50.	BKEPS8583H	Ekta Sachdeva	2,71,14,630
51.	AACPC7067R	Rajesh Chawla	2,65,31,380
52.	AACPC7068A	Mukesh Chawla	2,52,96,340
53.	AADPV5705E	Sanjeev Verma	2,37,42,500
54.	DNUPS8667F	Urvashi Sachdeva	2,25,12,145
55.	AAMP2657F	Riaz Munshi	2,23,50,570
56.	AJUPS9413N	Satya Narain Saria	1,75,73,400
57.	AFCPS4314N	Deepti Singhal	1,68,57,615
58.	ACBPJ3957A	Arun Kumar Jain	1,56,56,925
59.	ACQPA9417R	Nikita Agarwal	1,55,97,720
60.	AHGPB1747A	Munesh Bansal	1,51,81,770
61.	AANPJ1166B	Sandeep Jain	1,31,20,020
62.	AAFPA8944E	Rajeev Agarwal	1,19,73,600
63.	ABKPH4283M	Mohit Hissaria	1,00,25,850
<b>Profit made by Preferential Allottees / Pre - IPO Transferees in CNE</b>			
64.	ACNPT4287B	Chetan Kunverjibhai Thakkar	148961225
65.	ADNPA7732P	Kailash Chandra Agarwal	94084200
66.	AAIPA4256C	Manju Anup Agarwal	48300225
67.	ABXPH1788A	Sukhinder Singh Hooda	43270050
68.	ARRPS5413M	Harcharan Singh	39459250
69.	AJZPM7650C	Sushant Muttreja	36836900
70.	AAHPS9299N	Manoj Singhal	29788450
71.	AAXPS1493G	Kapil Sachdeva	24383050
72.	AAXPS1700Q	Gauravsachdeva	24334000
73.	AOOPK2220E	Bhupinder Kaur	23171250
74.	AQOPS2031B	Anil sachdeva	20725100
75.	AAEPR5593F	Rajeshwari	20090900
76.	ARJPS5757N	Sarika Sankhwal	18949200
77.	ABGPS0921H	Rajan Sahni	18785900
78.	ABIPS4714N	Arun Sankhwal	18676000
79.	ABGPS0922E	Navin Sahni	18419200
80.	ABIPS4715P	Madhu Sankhwal	15557250
81.	AATPS8461N	Anilsharma	14813450
82.	ALRPS8216N	Shreyans Sankhwal	13228000
83.	APZPV0747H	Prithvi Sudhir Vora	12903300
84.	AAFHA5045Q	Ajay Kumar HUF	12536050
85.	AAGPA8954P	Sudhir Agarwal	11909350
86.	AHFPG7290J	Vikas Goyal	11314300
87.	AAGPK0723L	Sanjay Kariwala	11224250
88.	AAKPG4084E	Vinita Gupta	10823400

89.	AAGPB1427L	V Balsubramaniam	10656750
90.	ADJPR7115B	Vikas Raj	10277875
91.	AACHD5831J	Dinesh Agarwal HUF	36919625
92.	AOOPK2217F	Kuljeet Kaur	34408300
93.	ARRPS5403K	Gurcharan Singh	31755825
94.	ASRPG5473A	Abhishek Gupta	12281950
95.			
<b>Profit made by Preferential Allottees / Pre - IPO Transferees in HPC</b>			
96.	ABHPT6904C	Jayanaben Nayanbhai Thakkar	129516435
97.	AAIPP1301R	Neeraj Prakash	60200739
98.	ABCPS0078F	Reena Kumari	56916027
99.	ABCPS0077L	Jagat Singh	54486459
100.	ABJPG7690J	Rajesh Gaba	44908227
101.	ACMPG5924D	Dinesh Gaba	42519249
102.	ADVPJ1356J	Suresh Chand Jain	35202000
103.	ADDPJ5506C	Abhishek Jain	34816200
104.	AMNPJ8901E	Sagar Jain	32986800
105.	AGDPP7573L	Nandini Pansari	31684800
106.	AAFPJ7614L	Ankur Jain	29712000
107.	AVBPS6306D	Divjot Singh	28946880
108.	AYIPA9888Q	Kritika Asseja	28727130
109.	AMGPM9259F	Virender Pal Singh Mainee	27869262
110.	ASPPS3078P	Shaleen Kumar Singh	27589200
111.	acmpg5926b	Anita Rani	24174648
112.	AAKPB9944J	Rajesh Bajaj	22494423
113.	ACJPA8351R	Mohd. Arif	22481256
114.	AACCM0442K	Moran Plantation Pvt Ltd	20627460
115.	AGPPK4328L	Sunil Kumar	20363916
116.	AAKPB9945K	Rajiv Bajaj	19313250
117.	AIMPB9015E	Nikesh Bardia	19226376
118.	AAHPG1456D	Sanjeev Gupta	17378400
119.	AAMPG5487F	Namita Gupta	17310000
120.	ACBPA6443Q	Deepak Agarwal	15061400
121.	AAQPJ4605G	Jai Kishan Jakhodia	14897817
122.	AFHPB4072M	Nitin Kumar Bardia	14166768
123.	AACCP2436Q	Parasramka Holdings (P) Limited	14085648
124.	ALCPA3324L	Rishab	13953600
125.	AAHPR9561N	Urmil Rathi	12585400
126.	AHWPM2448P	Shweta Rathi	12505000
127.	AEWPA2450G	Anchal Rathi	12283400

128.	AAGHD6153D	Sanjay Goyal Huf	12223512
129.	ABVPA5824E	Sarika Aggarwal	12046914
130.	AQXPS1846B	Tejpal Singh Sejwal	12037806
131.	ADQPA4236R	Manju Aggarwal	12035034
132.	AAOPA4656L	Rama Aggarwal	11861388
133.	AHWPK6613J	Bhag Kataria	11859606
134.	AFBPA0663F	Anjana Garg	11854000
135.	AIVPJ9518R	Bhawna Aggarwal	11747340
136.	ABFPK4763L	Ajay Kumar	11701800
137.	AALHA3711R	Amit Goyal Huf	11677056
138.	AALPD0474G	Satish Kumar Dhawan	11674674
139.	AAAPJ3918J	Sangeeta Devi	11653686
140.	AEAPG2172B	Pulkit Gupta	11636856
141.	AALHM9796E	Manish Kataria	11537472
142.	AAXPB4882G	Pardeep Bhatia	11491722
143.	AAUPS2341G	Madhu Saraf	11351800
144.	BUFPK8522D	Khushboo Kanodia	11335400
145.	AMQPA5671D	Ankit Agarwal	11318472
146.	CWYPS1114B	Rahul Solanki	11275308
147.	AAHPG8607Q	Vikas Gupta	11236500
148.	ABWPF2577J	Mohd Faiq	11233728
149.	AODPS9750A	Deepa Sejwal	11230758
150.	ACEPK7596D	Rshmi Kataria	11228778
151.	ABUPG0904C	Geeta Gupta	11184426
152.	CLFPK3259R	Nischint Kanodia	11129800
153.	AOEPK7545Q	Vidushi Kothari	11117304
154.	AUKPC5480A	Ekas Chhabra	11092752
155.	AAJPK2929F	Virender Kumar	11008008
156.	AATPG4540L	Sanjeev Kishore Gupta	11007414
157.	ABBPD5416D	Daropati Devi	10920000
158.	AFOPG8341M	Gaurav Gupta	10915344
159.	AAOPA4654J	Rajan Aggarwal	10896336
160.	AGRPC3451C	Gaurav Chandra	10878600
161.	AIHPC0099A	Vipul Chandra	10878200
162.	ADQPV7816E	Bimla Vij	10822680
163.	AGFPK0519H	Renu Kukerja	10822482
164.	AGFPK0518G	Anita Kukreja	10808622
165.	AGYPP5247Q	Mridu Prakash	10783872
166.	ABCPM0456H	Anuj Maheshwari	10717542
167.	AHVPA2998M	Urvashi Ahalawat	10708632

168.	AAOPA4653R	Satya Aggarwal	10613988
169.	AGYPG1226G	Shalini Gupta	10600326
170.	AKEPG4655R	Yogesh Gaba	10579200
171.	AAEPK3805B	Parveen Kumar	10535976
172.	AHPPA6148R	Simpi Agarwal	10333110
173.	ABRPG5287F	Vijendra Goyal	10331442
174.	AGYPG5066C	Inder Jeet Gaba	10322496
175.	AZKPC1170A	Lokesh Chandna	10299264
176.	ADIPV6705E	Vinita	10272438
177.	AARPS2666K	Ramesh Chandra Saraf	10216794
178.	AALPA1253A	Sourabh Aggarwal	10082358
179.	AAOPA4655K	Kamla Aggarwal	10063350
180.	ACBPA6440P	Archana Agarwal	10051000
181.	ACCPG9426C	Naveen Goel	22672000
182.	AGBPG6077E	Seema Goel	22618400
183.	AFKPJ4680C	Asifa Jamal	11329956
184.	AQNPG3627J	Dhruv Gabba	11297946
185.	AAEHG6995E	Gaurav Garg & Family HUF	11171200
186.	AAJPG3068K	Nidhi Goel & Chetan Prakash Goel	11099484
187.	ACTPK8257G	Sharwan Kumar	10291644

16. I note that the *interim order* highlighted the fact that the *Trading group* bought most of the shares sold by the *preferential allottees / Pre IPO Transferees*. The details of the value of the exit provided by the Trading group covered in this order and against whom confirmatory directions have already been passed are tabulated below.

PAN	Name	Bought from Preferential Allottees / Pre IPO Transferees	
		Quantity	Value in ₹
AAECT4670L	Trucklink Vinmay Trading Private Limited	1033000	506436485
AABCL3306N	Lunar Builders Pvt. Ltd.	534200	282954785
APBPK8097B	Jai Kishan	746800	336751025
AAICM3230H	Murlidhargiri Trading Pvt. Ltd.	395100	209090940
AAGCR2643P	River High Right Share Brokers Private Limited	441100	195453660
AAFCEM3345L	Mahashiv Metal and Alloys Private Limited	334100	155273660
AKEPG0828N	Shankar Lal Gupta	285000	121914900
AAGCA4053L	Accurate Buildwell Private Limited	346800	117321120
AKFPV6256L	Ashvin Verma	589800	239042190
AABCU4900D	Unite Buildcreate Private Limited	143600	76262755
AAFCEM1482Q	Master Piece Infocom Pvt. Ltd.	145300	71985245
AATCS2129L	Sure Portfolio Services Private Limited	153000	70452180

AADCC2898Q	Century Buildmart Pvt. Ltd.	169800	68980980
AADCB3034D	Blue Star Impex Private Limited	140400	58846650
APJPK8855K	Pawan Kumar Kaul	100200	42615960
AATCS2130B	Steady Capital Advisory Services Private Limited	82800	34648980
AJKPY8234D	Vishal Yadav	84600	32247780
AAICA0771D	Ahuja Metalloys Private Limited	130000	57354070
ASPPV7875F	Sunila Rai Verma	61200	28534800
DRUPS8079D	Stallion Trading Co. Prop. Sapna	55200	24116100
AEKPK6751Q	Santosh Kumar	42000	15526500
AXFPR4439L	Ramprakash	24600	11094360
DWOPS8186Q	Amit Kumar Saxena	28800	9337260
AETPG3006K	Baidya Nath Gupta	13200	4573800
AALCS3282L	Surya Medi Tech Limited	2400	1069560
	<b>Total</b>	<b>6083000</b>	<b>2771885745</b>

17. Considering the fact that majority of entities have already been heard and that the replies are similar/identical, even though some of the entities are delaying by seeking adjournment/documents, it is observed that the proceedings for passing of confirmatory order pending investigation in the matter in respect of 107 persons/entities (out of the remaining 131 entities of the total 254 entities) are now complete and the appropriate order in the matter *qua* such noticees herein needs to be passed on considering their replies/submissions and relevant material available on record. The replies/submission of the noticees are *inter alia* as under:

#### **I. Companies:**

1. **Eco and Esteem** (Represented by Mr. B.K. Sabharwal, Director ):
  - a) The *interim order* passed against them is against the well-recognized principles of natural justice and ought to be recalled. They made a reference to the judgement of Hon'ble Supreme Court of India in the case of *Canara Bank and Ors. vs. Sbri Debasis Das and Ors.* to support their contention.
  - b) They are confronted with harsh and unwarranted directions, even when the Company did not execute a single transaction. Further, the promoters were not involved in the alleged price/volume movement of the shares of the Company and have not traded in the equity shares of the Company.
  - c) They have been regularly reporting the utilization of IPO proceeds as part of the half yearly results filed with BSE.
  - d) The turnover of Eco has increased from ₹79.26 lacs in the Financial Year 2010-11 to ₹317.95 lacs at the end of Financial Year 2014-15. The turnover of Esteem has increased from ₹173.10 lacs in the Financial Year 2010-11 to ₹339.64 lacs at the end of Financial Year 2014-15.

- e) The companies have complied with the requirements of the applicable regulations and the listing agreement.
- f) The companies used to intimate all the relevant information to the stock exchange for appraising the stakeholder, shareholders and the market in general so as to enable the general investors to take rational decision about the Company and no information was concealed.
- g) There is no material deviation, hence the companies have not violated the provisions of clause 46 of the Listing agreement entered with the Stock Exchange.
- h) With respect to the movement of funds, the companies submitted that their accounts are audited on regular basis and that no fault has been found with the same.
- i) They denied being connected with the alleged *Trading Group* and also denied all the allegations made against them in the *interim order*.

2. **CNE** (Represented by Mr. Gajraj Singh, Director):

- a) There was no emergent situation or circumstance warranting such an *ad interim ex-parte order*.
- b) The company denied the allegations made in the *interim order*.
- c) It was not provided with any document or afforded any opportunity to present its case prior to the passing of the *ex-parte interim order* which is a violation of principles of natural justice.
- d) BSE was also seized with the matter and had suspended the scrip for 10 working days for the same issue which amounts to double jeopardy.
- e) The company submitted that it was utilising the IPO proceeds as per disclosure made in the Prospectus and was reporting the utilization of its IPO proceeds as part of the half yearly financial results filed with BSE.
- f) There was not even a single transaction which can show the involvement of the company directly. The promoters of the company never traded in the shares of the company.
- g) The allegation regarding the *preferential allottees* are ill-founded and that its promoters have no role to play.
- h) The company or its promoters had no role in the price/volume behaviour of the scrip.
- i) They have no connection with the *Trading group* as alleged and there is no "*Funding group*" as per their knowledge. All the shares were subscribed through IPO from open market and if there is any deviation from the norms while filing the forms for allotment then it is beyond their control and they cannot be held responsible for the acts and deeds of the person so applied for the shares in IPO.
- j) The trading of shares of the company on the very high price is nothing to do with the alleged group but because of strong fundamental. There is no document on record nor supplied to the company to establish a nexus and it is a mere after thought.
- k) They have complied with all the requirements of applicable laws, rules, regulations,

including the listing agreement.

- l) They used to intimate all the relevant information to the stock exchange for appraising the stakeholder, shareholders and the market in general and no information is concealed so as to enable the general investors to take rational decision about the Company.
- m) There is no material deviation, hence the Company has not violated the provisions of clause 46 of the Listing agreement entered with Stock Exchange.
- n) The company submitted with regard to funds movement that their accounts are audited on regular basis and that no fault has been found with the same.

**3. HPC** (Represented by Mr. Manish Jain, Advocate):

- a) The Company had witnessed growth and the turnover increased from ₹289.83 lacs in the Financial Year 2010-11 to ₹326.36 lacs at the end of the Financial Year 2014-15.
- b) It was not provided with any document or afforded any opportunity to present its case prior to the passing of the *ex-parte interim order* which is a violation of principles of natural justice.
- c) It had complied with all the requirements of applicable laws, rules, regulations, including the listing agreement. The Promoters were not involved in the alleged price/volume movement of the shares of the Company.
- d) It had no connection with the alleged *Trading group* or *Funding group* and is not aware of any such group. All its shareholders are genuine, who have received their shares through open bid in market by filing the subscription form for allotment of shares of the company.
- e) The trading of shares of the Company on the very high price is nothing to do with the alleged group but because of strong fundamental.
- f) The Company used to intimate all the relevant information to the stock exchange for appraising the stakeholder, shareholders and the market in general and no information was concealed.
- g) There is no material deviation, hence the Company has not violated the provisions of clause 46 of the Listing agreement entered with Stock Exchange. They have been reporting the utilization of IPO proceeds as part of half yearly financial results filed with BSE.
- h) They have submitted that with regard to the funds movement, the accounts of the Company are audited on regular basis and no fault has been found with the same.

## **II. Directors**

**1. Ms. Sakshi Saxena (director in HPC)** (did not appear in the personal hearing):

- a) She joined Vishvas Projects Ltd., where she was learning secretarial and RoC related work while pursuing the Company Secretaries course from the Institute of Chartered Secretaries of India.
- b) During her training (from May 03, 2009 to August 02, 2012), Mr. B. K. Sabharwal, one of

the proposed directors of HPC and Mr. Tarun Chauhan requested her to become an independent director of HPC for a short span of time. She denied the same as she was not aware of said company's whereabouts. After her denial, the behaviour of the employer and employees in Vishvas Projects Ltd. changed completely and they insisted her to discontinue from her training. Hence, she had no choice but to accept their offer in order to complete her training.

- c) After completion of training in 2012, she left the company. Whenever, she asked for resignation, they denied it and delayed on one pretext or the other. In spite of several visits and phone calls to the company's office number, they did not respond saying that they do not have anyone to replace.
  - d) After receiving the copy of order from SEBI, she immediately visited the office of HPC and filed Form DIR-11 for her resignation. After several attempts and great persuasion, she forced the company to file DIR-12 as per Companies Act, 2013.
  - e) She is not director of HPC w.e.f. July 13, 2015.
  - f) She had not signed in any document apart from Form-32 and her ID-proof. She submitted that it was her honest mistake and was not aware of what she was getting into. She is not holding any shares of the company and did not benefit in any manner.
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- a) **Mr. Neeraj Mittal (director in Eco and Esteem)** (Represented by Mr. Joby Mathew and Mr. Ramesh Gogawat, Advocates):
    - b) He stated that he was introduced by Mr. Vinod Kumar Garg (Professional colleague and known friend) to Mr. Vijay Kumar Jhindal, Chartered Accountant (Promoter) and Mr. Brij Kishore Sabharwal (Director of Delhi Stock Exchange Limited). They offered him a position of independent director in Eco and Esteem. He initially declined but later on accepted looking at the growth plans of the Company.
    - c) Before being appointed, he looked at the background of the Company and to the best of his knowledge and understanding found no mischief or wrong-doing in the companies. He was an independent director in Eco during the period March 05, 2012 to March 25, 2013 and in Esteem from March 06, 2012 to April 22, 2013.
    - d) He does not belong to the promoter group and not connected or related to the company/its promoters/its directors/its senior management personnel except in the capacity as an independent director of the company.
    - e) He was not involved in the day to day affairs of the company and was only participating in the Board meetings of Eco and Esteem.
    - f) He expressed his due diligence in ordinary course and in ordinary sense by reviewing the documents/information provided by Eco and Esteem in the public domain and found them to be true and fair to the best of his knowledge and judgement.
    - g) He never found any irregularity in the preferential allotments made by Eco and Esteem to raise funds. Nothing could have raised a suspicion of irregularity in the documents placed

before the Board regarding the manner of allotment or utilization of the preferential issue proceeds. He had checked the requisite compliances of Eco and Esteem in their respective IPOs and did not find anything which was suspicious in nature.

- h) He resigned as an independent director from Eco and Esteem with effect from March 25, 2013 and April 22, 2013 respectively. He had no access to the Minutes of the Board Meeting authorizing the alleged transfer of funds.
- i) He has stated that in the matter of Suresh Chandra Gupta, SEBI vide its order dated September 03, 2012 had revoked the interim directions in the matter of IPO of PG Electroplast Ltd.
- j) Neither he nor his relatives derived any benefit from Eco and Esteem directly or indirectly and he has not made any investment in Eco and Esteem.
- k) He was neither aware of nor played any part or role into the scheme, plan, device and artifice as alleged to have existed/framed. He has not committed any fraud and did not indulge in any manipulative or fraudulent trade practices.
- l) He contended that 'fraud' is detestable and cannot be presumed in the absence of cogent proof and it should be proved beyond reasonable doubt. He has referred to judicial pronouncements of the Hon'ble High Court of Calcutta in the matter of *Md. Fazul Haque vs. Union of India and Ors* [W.P. No. 568 of 2003], *Narayanan v. Official Assignee, Rangoon* [MANU/PR/0009/1941:AIR 1941 PC 93] and Hon'ble SAT in *KSL Industries Limited vs. SEBI* to support his contention.
- m) The onus to prove, in case of fraud, rest on the person/party who alleges the fraud and relied on the Hon'ble Supreme Court judgements in *Mohan Singh v. Bhanwarlal, Sultan Salahuddin owaisi v. Mohd. Osman Shaheed* and the decision of Hon'ble SAT in the matter of *Ess Ess Intermediaries vs. SEBI-Appeal 13 of 2013*.
- n) He contended that his acts are not fraudulent and are far away from the elements described under Regulation 2(1)(c) of PFUTP Regulations, 2003 and denied contravening the provisions of regulations 3 (a), (b), (c) and (d), 4 (1), (2) (a), (b), (e) and (g) of the PFUTP Regulations, 2003 and section 12 A of SEBI Act, 1992.
- o) He requested that the *interim order* against him be set-aside as the same was not in consonance with the well settled principles of administrative laws.

### **III. Trading Group**

**Surya Meditech Ltd** (Represented by Mr. Sudhir Kumar Agarwal, CA):

- a) They had purchased 16,800 shares of Eco on March 14, 2014 on the market at the average price of ₹471/- and sold 7,200 shares on March 15, 2014 at the price of ₹445/- to Aavia Buildtech Private Limited through off market and 9,600 shares on March 19, 2014 at the price of ₹490/- to Accurate Buildwell Private Limited through off market.
- b) They had purchased 1200 shares of Esteem on March 28, 2014 on market at the price of ₹428/- and sold the entire quantity to Accurate Buildwell Private Limited on May 2, 2014

at the price of ₹428/-

- c) Their trades are limited to two and when they discovered that there was no possibility of any gain from these shares, they were transferred to the above mentioned entities and no income has accrued from the same.
- d) They also contended that in *Zenith Infotech Ltd vs. SEBI and Ors*, the Hon'ble SAT has held that although SEBI is empowered to pass ex-parte *interim orders*, this power is to be exercised sparingly in the most deserving cases of extreme urgency.

#### **IV. Preferential Allottees and pre IPO Transferees:**

- (1) **Mr. Ram Avtar Gupta and Ms. Savita Gupta** (did not appear in the personal hearing):
  - a) They have made payment for the shares allotted to them on preferential basis. They have done investment with no scope of any unaccounted money getting involved and the entire transactions are through banking channel without involving any cash.
  - b) They have made investment in shares of various companies from time to time depending on the prospects based on their research and advice of their consultants.
  - c) They have requested to allow them to continue unrestricted trading on normal business terms.
- (2) **Mr. Munish Bajaj, Ms. Sushma Bajaj** (Represented by Mr. Prakash Shah and Mr. Bharat Redij, Advocates)  
**Mr. Rakesh Kumar Goel, Ms. Monika Goel** (Represented by Mr. Bharat V Redij, Advocate)  
**Mr. Sandeep Narang and Ms. Tanya Narang** (Represented by M/s. Meit Shah and Robin Shah):
  - a) The *interim order* was passed in defiance of the principles of natural justice as an opportunity of personal hearing was not provided before passing the order and there was no emergent situation for passing the said order in exercise of powers under section 11(1), 11(4) and 11(B) of the SEBI Act.
  - b) Section 11(4)(e) of the SEBI Act mandates an approval from a Judicial Magistrate for attachment of accounts, which is not obtained before attaching his accounts.
  - c) The open restraint order is in breach of their fundamental right of carrying business under Article 19 (1)(g) of the Constitution of India.
  - d) They do not have any link/connection/nexus with Eco, or its promoter/directors, other *Preferential Allottees, Pre IPO Transferees* or the entities of *Funding Group* and *Trading Group*.
  - e) They do not have any role in the alleged 'manipulation' of the price or volume of the scrip of Eco. All transactions executed in the scrip of Eco were genuine and were backed by actual delivery. Further, all the trades were executed on screen based mechanism of the stock exchange and hence, they were not aware of the identity of the counter party.

- f) They have not acted or conducted their affairs in a manner detrimental to the interest of the investors or securities market.
- g) SEBI has made sweeping, bald and common observations against them, amongst others in the *interim order* and there has been no attempt to examine their particular and individual role in the matter.
- h) Mr. Munish Bajaj and Ms. Sushma Bajaj submitted that their investment decision in the shares of Eco was made independently based on the recommendation given to them by Mr. Dilip K Bhagat. Mr. Dilip. They contended that merely on the basis that they had preferential allotment cannot be the basis to presume or pre-suppose that they have nexus, link or relationship with Eco.
- i) Mr. Rakesh Kumar Goel, Ms. Monika Goel, Mr. Sandeep Narang and Ms. Tanya Narang submitted that they are retail investors and have limited skill and experience in fundamental and technical research before making an investment and their investment decision was based on the news and rumours in print media, investment decision of other investors and the intuition and psychology of other investors. Mr. Sandeep Narang and Ms. Tanya Narang also submitted that they were advised by Mr. Varun Kholi, Chartered Accountant to invest in the shares of Eco.
- j) These persons also submitted that they had invested in the company Eco based on its future prospects and growth potential and not based on the present financials of the Eco.
- k) They have purchased shares with their legitimate source of income. They are regular Income Tax Assessors and filing their Income Tax returns regularly, paying taxes due on their income, never defaulted in filing income tax returns or depositing tax due thereon. Further the purchase and sale of the shares have been properly accounted for and fully disclosed to all the authorities.
- l) They are not part of any wrong doing and genuinely had no idea of any *modus operandi* of any group/entity as alleged or otherwise. Their sale of shares of Eco was at the prevailing market price and they fail to understand as to how their transactions are fraudulent in nature.
- m) They sold shares of Eco which is a minuscule percentage of the total market volume in the scrip at the relevant point of time.
- n) They deny the alleged violation/contravention of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d) along with Regulations 4 (1), 4(2) (a), (b), (c), (d), (e) and (g) of PFUTP Regulations. They have not employed any device, scheme or artifice to defraud in connection with dealing in or issue of Eco.
- o) They have submitted that strict proof and compelling evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in *Parsoli Corporation vs SEBI* and the attention was also drawn to the Hon'ble Supreme Court's decision in the case of *Ram Sharan Yadav v. Thakur Muneshwar Nath Singh*.

- p) They have cited the observations of the Hon'ble SAT in *Bhoruka Financial Services Limited v. SEBI* to contend that the *ex-parte order* is without specific and firm findings against them.
- q) They prayed for the following:
  - i. to revoke the present directions against them
  - ii. They permitted to sell the shares and securities held in their portfolio and use the entire proceeds for their need based requirements.

**(3) Mr. Ashok Batra and Ms. Bharti Batra** (Represented by Mr. Ketan Rupani, CA):

- a) The depository participant had frozen their demat account immediately on passing of the *interim order* without any specific directions even though they have been allowed 21 days' time to file their objections in the matter.
- b) The open restraint order against them is in breach of fundamental right of carrying on business bestowed upon every citizen under the Constitution of India. Further, SEBI has not followed the basic principles of natural justice.
- c) They have no financial dealings or any other dealings with any of the persons or entities mentioned in the *interim order*. They have not indulged in any fraudulent or unfair trade practice while dealing in the shares of Eco.
- d) The grave charge of 'fraud' has been levelled against them on *prima facie* findings, despite the fact that they have not claimed any tax exemption on the income/profit earned on sale of shares of Eco.
- e) In the *interim order*, there has been no attempt to examine their particular and individual role in the matter. SEBI has not identified, delineated or outlined any connection between them and Eco, its promoters/directors/management or any other entity named in the order.
- f) The investment decision in the shares of Eco was made by them independently on the advice of Mr. Dilip K Bhagat. The shares of Eco were purchased with their legitimate source of income and the trades were executed through the normal screen based trading system of the stock exchange.
- g) Mr. Ashok Batra has submitted that off market transaction was not illegal *per se* and have cited the order of Hon'ble SAT in the case of *Rajendra G parikh vs. SEBI* (Appeal No. 44 of 2009).
- h) The *interim order* was in gross violation of the basic principles of audi alteram partem. They have cited judicial pronouncements in the matters of *Painter v. Liverpool Oil Gas Light Co.* [(1836) 3 A & E 433], *A.R. Antulay v. R. S. Nayak* [(1988) 2SCC 602] and *State of AP vs. Nagam Chandrashekara Lingam* and *Collector of Customs vs. Bibhuti Bhushan Bagh*.
- i) The open restraint order is in breach of their fundamental right of carrying on business under Article 19 (1)(g) of the Constitution of India.
- j) They have not employed any manipulative or deceptive device with respect to their

purchase or sale of shares of Eco and not have acted in the contravention of the provision of SEBI Act or the rules or regulations made there under and deny the allegations with respect to violation/contravention of the provisions of SEBI Act and PFUTP Regulation.

- k) They contended that the *interim order* is totally silent on their specific role in relation to the alleged scheme by the company and have cited the case of *Sterlite Industries (India) Ltd. V. SEBI* (2001) 34 SCL 485 (SAT). It was also submitted that strict proof was required for the serious charge of fraud as observed by the Hon'ble SAT in the matter of *Parsoli Corporation vs. SEBI* and that compelling evidence is required to charge someone of fraud.
- l) The *ex-parte order* had no specific and firm findings against them was in utter disregard of law and SEBI had acted beyond its scope, purview and power assigned to it and has frozen their demat account.
- m) They requested that they may be allowed to sell the shares and securities in their portfolio and use the proceeds for their need based requirements and also requested that the *interim order* against them be made inoperative.

(4) **Ms. Kaushalya Garg, Mr. Jagdish Chand Gupta, Mr. Navel Kishore Gupta and Mr. Mukul Gupta & Mr. Satish Kumar Gupta** (Represented by Mr. Navel Kishore Gupta and Mr. P. S. Singal, Advocates):

- a) They have no cause or concerned with the entities mentioned in the *interim order* and their transactions or exposure was limited and bonafide.
- b) They had purchased shares against consideration after thorough research and due diligence and sold the same in the open market. Their family got the information from market sources that a new venture was being initiated by Mr. Brij Kishore Sabharwal who is a reputed businessman.
- c) They decided to invest in the shares of Eco keeping in mind the high profile of Mr. Brij Kishore Sabharwal (Promoter of Eco) and the objects of the company.
- d) They do not have any nexus with Eco and its promoters/directors. They were not connected to Eco, the alleged suspected entities and other *preferential allottees* in any manner except their family members who were *preferential allottees*.
- e) They are totally unaware as to whether the buyers were related to Eco or otherwise. The sale proceeds were utilized towards investment purpose. They have not used the stock exchange system to generate fictitious long term capital gain.
- f) The *interim order* has singled out only those persons who sold their shares, therefore the parity requires that order may be invoked for others also.
- g) From the logs provide by SEBI, more than 50% of the shares held by them were purchased by the general public and not by entities mentioned in the *interim order*.
- h) They have requested to revoke the directions against them.

(5) **Om Prakash Agarwal HUF, Ms. Abhilasha Agarwal, Sanjay Agarwal HUF and Ms. Anshu Agarwal** (Represented by Ms. Deepika Vijay Sawhney Advocate and Mr. Sunil Kumar Sakral):

- a) They are not associated with any of the promoter/director/shareholders of Eco or Goldline International Finvest Ltd. ("Goldline"). The charges mentioned in the *interim order* against them are violation of Regulation 3 (a), (b), (c) and (d) and 4 (1), 4(2) (a), (b), (c), (e) and (g) of SEBI PFUTP Regulations, 2003 without providing the basis on which the allegations are imputed upon them.
- b) They had never been involved in any dealing or any kind of transaction with Eco or any of its promoter or director or employee. They had no dealing or relationship with Goldline except the purchase of shares of Eco.
- c) They sold the shares of Eco when there was already volume and liquidity in the market. It is erroneous to charge it for fraud and manipulation for executing purely business transaction, without any association or relation with third parties.
- d) In light of the observations of Hon'ble SAT in the matter of Ketan Parekh vs. SEBI, it is apparent that there is nothing to establish their malafide and manipulative intent.
- e) Trades were executed on the anonymous automated trading system of stock exchange. The gains made by them are legitimate in the eyes of law supported by their fair conduct.
- f) They have not violated any of the provision of PFUTP Regulations, 2003. The shares sold by them were meagre and miniscule.
- g) They have not acted in concert with the alleged parties/entities, have not done any fraud nor have indulged into any manipulation. Fundamental right to do trade and business has been fringed. They have cited the case of Hon'ble SAT in the matter of *Ess Ess Intermediaries vs. SEBI* (Appeal 13 of 2013), that "*the allegation of fraud can be levied against a person/entity only for good reasons and on the basis of clear and unambiguous evidence.*"
- h) They have requested for the following:
  - i. Their demat accounts be defrozeed.
  - ii. They requested to permit to deal, buy sell in securities market.
  - iii. The directions passed against them be withdrawn.

(6) **Mr. Atma Ram Khatri, Mr. Hira Lal Khatri** (Represented by Mr. Meit Shah)  
**Mr. Rajesh Chawla, Mr. Mukesh Chawla and Mr. Sanjeev Verma** (Represented by Mr. Ketan Rupani, CA):

- a) The *interim order* is passed in defiance of principles of natural justice as an opportunity of personal hearing was not provided before passing the order and there was no emergent situation for passing the said order in exercise of powers under section 11(1), 11(4) and 11(B) of the SEBI Act. They have cited the case laws of *Painter v. Liverpool Oil Gas Light Co.*, *A.R. Antulay v. R.S. Nayak*, *State of AP vs. Nagam Chandrashekbara Lingam and Collector of Customs vs. Bibbuti Bhushan Bagh* in their defence.

- b) Section 11(4)(e) of SEBI Act mandates an approval from Judicial Magistrate for attachment of accounts, which is not obtained before attaching their accounts.
- c) The open restraint order is breach of fundamental right of carrying business under Article 19(g) of the Constitution of India.
- d) They do not have any link/connection/nexus with Esteem, or its promoter/directors, other *preferential allottees, pre IPO transferees*, Merchant Banker or the entities of *Funding Group* and *Trading Group*.
- e) They sold their shares at the then prevailing market price and their volume vis-à-vis the market volume in the scrip of Esteem was diminutive so as to have any impact on the price of the scrip. Further, all the trades were executed on the screen based mechanism of the stock exchange and, hence, they were not aware of the identity of the counter party.
- f) They have not acted or conducted their affairs, in a manner detrimental to the interest of the investors or securities market.
- g) SEBI has made sweeping, bald and common observations against them, amongst others in the *interim order* and there has been no attempt to examine their particular and individual role in the matter.
- h) Mr. Atma Ram Khatri and Mr. Hira Lal Khatri submitted that their investment decision in the shares of Esteem was made by them independently based on the advice of Mr. Sachin Tayal, who portrayed a bright future of Esteem and the industry as a whole.
- i) Mr. Rajesh Chawla and Mr. Mukesh Chawla submitted that their investment decision in the shares of Esteem was made based on the present financials of a company and based on the recommendation of Mr. V K Bansal.
- j) Mr. Sanjeev Verma submitted that he invested in the shares of Esteem on the advice of Mr. Dharmender Grover, who portrayed a bright future of Esteem and the industry as a whole.
- k) They submitted that they purchased shares with their legitimate source of income. They are regular Income Tax Assessees and are filing their Income Tax returns regularly, paying taxes dues on their income, never defaulted in filing income tax returns or depositing tax due thereon. Further, the sale and purchase of the shares has been properly accounted for and fully disclosed to all the authorities.
- l) They were not part of any wrong doing and genuinely had no idea of any *modus operandi* by any group/entity as alleged or otherwise. Their sale of shares of Esteem was at the prevailing market price and they fail to understand as to how their transactions are fraudulent in nature.
- m) They had sold shares of Esteem which is a minuscule percentage of the total market volume in the scrip at the relevant point of time.
- n) They denied the alleged violation/contravention of the provisions of Section 12A (a), (b), (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d) along with Regulations 4 (1),

- 4(2) (a), (b), (c), (d), (e) and (g) of PFUTP Regulations. They have not employed any device, scheme or artifice to defraud in connection with dealing in or issue of Esteem.
- o) They have submitted that strict proof and compelling evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in *Parsoli Corporation vs SEBI* and also drew attention to the case of *Ram Sharan Yadav v. Thakur Muneshwar Nath Singh* in decided by the Apex Court.
  - p) Mr. Sanjeev Verma submitted that the counterparty entities to his trade are neither part of the present proceedings nor have they been debarred from accessing the securities market. The same trade executed by counterparty entities is considered normal and genuine on one side and fraudulent on the other side, such a prejudicial partial approach by SEBI is perverse, arbitrary and unfair.
  - q) They prayed for the following:
    - i. They requested to sell the shares and securities held in their portfolio and use the entire proceeds for their need based requirements.
    - ii. They are allowed to deal in shares, mutual funds.
    - iii. The allegation and charges against them be dropped.

(7) **Mr. Pawan Kumar Singhal, Pawan Kumar Singhal HUF, Ms. Reeta Singhal and Ms. Akansha Singhal** (Represented by Ms. Poonam Gadkari and Mr. Nitesh G Menon, Advocates):

- a) They deny that they have violated any of the provisions of PFUTP Regulations, 2003 and the provisions of SEBI Act, 1992 while dealing in the shares of Esteem. The *interim order* against them is illegal, perverse, and the directions against them are arbitrary. The *interim order* amounts to a gross violation of principles of natural justice.
- b) The decision to allot shares was taken by the management of Esteem and they had no role to play in the same.
- c) They are not connected to the *Funding Group* or have facilitated routing of funds and did not have any relation/connection with the entities of *Trading Group*.
- d) The price of scrip may be influenced by innumerable factors like the general market trend, market sentiment, the existing position of market players, etc.
- e) They believed that their trades in Esteem have not contributed to influencing the last traded price.
- f) They are not aware of counterparties as they traded on the screen based trading of the stock exchange.
- g) They have invested their own funds and made profits in normal course of investments. The share prices have risen and later diminished over the period. Would they have been aware and involved in the alleged manipulation, they would have sold at the highest price. They kept placing orders for seven months till the time their entire shareholding acquired by virtue of preferential allotment were sold.

- h) The ratio of judgement passed by the Hon'ble SAT in *Ketan Parekh v. SEBI* in Appeal no. 2/2004 decided on July 14, 2006 does not apply to them as neither their conduct nor pattern of transactions, etc. reflects any manipulative or fraudulent intent.
- i) They are not aware of plan, device or artifice. They do not have connection/ relation with *preferential allottees, pre IPO transferees, Trading group* and *Funding group* entities. They deny that they along with other entities have used the stock exchange system to artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one.
- j) They deny that their acts and omissions are fraudulent as defined under Regulation 2(1) (c) of the PFUTP Regulations, 2003 and are in the contravention of the Regulations 3(a), (b), (c) and (d) and 4(1), (2) (a), (b), (c) and 9g) and Section 12A (a), (b) and (c) of the SEBI Act, 1992.
- k) The *interim order* is grossly disproportionate, unfair, unjustified and amounts to pure penalty which is not tenable at an *ad-interim ex-parte* stage.
- l) They have requested that the *interim order* as against them be withdrawn.

**(8) Mr. Mohit Hissaria** (Represented by Mr. A. K. Jain, CA):

- a) He is not involved in the positive LTP contribution. He was not provided exit by any of the entities mentioned as *Trading Group* or *Funding Group* in the Order.
- b) He denied the allegation about weak financials of Esteem. He subscribed with his own funds in the shares of Esteem after analysing the records of the company.
- c) He has not earned profit of Rs.1 crore or more and his profit was Rs.98.31 Lacs after deducting transaction cost on 'FIFO' basis. Hence, this *interim order* would not be made applicable to him.
- d) The IPO was alleged to be funded by *Funding group* to the extent of 36%, even then 64% of IPO was subscribed by general public (unconnected persons). Hence price cannot be manipulated post IPO by a group of persons, as majority of shares were held by outsiders.
- e) He was not involved directly or indirectly in any manner in the IPO of Esteem.
- f) Besides other *preferential allottees/ pre IPO allottees*, his trading in the scrip of Esteem was made through online trading platform of BSE where in IPO allottees were also free to place sell orders.
- g) He was not connected to any kind of manipulation or fraudulent transaction. Preferential allotment is the prerogative of the management of the company which has been upheld by Hon'ble Madras high Court in the case of *Maxwell Dyes and Chemicals Private Limited v. Kothari Industrial Corporation Ltd.* [(1996) 85 CompCas 111 Mad].
- h) He used sale proceeds for his business/personal purpose.
- i) His transactions were in the normal course and exhibit normal behaviour of stock market and would not be covered under PFUTP Regulations, 2003.

- j) No evidence has been brought on record that consideration received on the sale of shares of Esteem was his black money routed through Esteem group or other suspected entities and converted into Tax free LTCG.
- k) He is a regular investor in the stock market and all his investments and income is duly assessed to Tax.
- l) He further submitted that SEBI should use the power to issue *ex-parte ad-interim order* under sections 11, 11B only in cases when there is a grave and serious/extreme urgency as decided by Hon'ble SAT in the matters of *Zenith Infotech Ltd v. SEBI* and *Pancard Clubs Limited v. SEBI*. Further, as decided in the matte of *Sterlite Industris (India) Limited v. SEBI*, *Videocon International Ltd V. SEBI* and *Roopan Sharma v. SEBI*, section 11B does not provide for imposition of penalty by debarring the client.
- m) He requested that the restraint imposed against him be withdrawn and permitted him to deal in the securities market.

(9) **Mr. Prateek Gupta, Mr. Satinder Paul Gupta, Ms. Minakshi Gupta, Mr. Sahil Gupta, Ms. Neelam Gupta, Mr. Tarsem Chand Gupta, Ms. Priya Gupta and Mr. Nishil Gupta** (Represented by Mr. Prakash Shah and Mr. Bharat Redij, Advocates):

- a) The charge of 'fraud' against them on *prima facie* findings despite the fact that they have not claimed any tax exemption on the income/profit earned on sale of shares of Esteem. They have paid income tax at the highest rate of 33.99% (30% Tax + 10% Surcharge +3% cess) considering the dealing in Esteem shares as business income.
- b) Their dealing in Esteem shares has been in the nature of share trading activity and profit derived in dealing in the shares of Esteem forms part of their Business Income. The question of avoidance of tax and non-payment of long term gain tax is not applicable in their case.
- c) They have not received any prior communication, notice or correspondence seeking their explanation or clarification on the subject matter during preliminary enquiry conducted by SEBI.
- d) The said *interim order* has been issued *ex parte* and they have been condemned unheard. This was a gross violation of the cardinal rule of '*audi alteram partem*' and therefore violates basic principles of equity, fair play and natural justice.
- e) They have submitted that Mr. Tarsem Chand Gupta and Mr. Satinder Paul Gupta are business partners and were advised by Mr. Ravi Gupta (BSc., FCA) to invest in the shares of HPC.
- f) Ms. Minakshi Gupta (wife of Mr. Satinder Paul Gupta), Mr. Sahil Gupta and Mr. Nishil Gupta (sons of Mr. Satinder Paul Gupta) were advised by Mr. Stainder Paul Gupta who in turn was advised by Mr. Ravi Gupta.
- g) Ms. Neelam Gupta (wife of Mr. Tarsem Chand Gupta), Mr. Prateek Gupta (son of Mr. Tarsem Chand Gupta) and Ms. Priya Gupta (daughter of Mr. Tarsem Chand Gupta)

were advised by Mr. Tarsem Chand Gupta, who in turn was advised by Mr. Ravi Gupta to invest in the shares of HPC.

- h) They are bundled with other entities with whom they have no connection whatsoever nature except either as their family members, their business partners or their fathers' business partners.
- i) Their alleged role and involvement in the present directions is totally misplaced and based on surmises, conjectures, erroneous data and wrong interpretation.
- j) There are no documents, details, particulars or even an iota of evidence was furnished with respect to the adverse findings against them.
- k) Passing an Order indiscriminately and unilaterally after more than 9 months after they executed their sale transaction in Esteem i.e. on September 05, 2014 is unjustifiable, preserve and arbitrary.
- l) The open ended restraint on them has been made immediately effective from the date of the *interim order*. An open ended restraint order against them is in breach of fundamental right of carrying on business bestowed upon every citizen under Article 19(g) of the Constitution of India.
- m) They invested in the shares of Esteem from their legitimate income. Their investment in the Esteem is very minuscule portion constituting less than 1% of their total net-worth.
- n) There are no fund transfer to alleged entities mentioned in the *interim order* except for the payment to Esteem for preferential allotment.
- o) They have no connection with the promoters of Esteem, *Funding Group, Pre IPO transferees, Trading Group* and Merchant Banker.
- p) They denied violating the provisions of section 12A (a), (b), (c) of the SEBI Act, 1992 and regulations 3 (a), (b), (c), (d), 4(1), 4(2)(a), (b), (c), (d), (e) and (g) of the PFUTP Regulations.
- q) Nishil Gupta has contended he was residing at Stamford Connecticut, USA during the Financial Year 2012-13 and therefore the findings in the para 36 of the *interim order* that *'It is matter of common knowledge that in a private placement, wherein allotment is made to select persons or group of persons on one to one basis, the issuer and their promoters / directors have connection on account of acquaintance and familiarity.'* is not applicable and that he had no connections with Esteem, *their promoters and directors*.
- r) They requested for the following:
  - i. They requested to allow to sell the shares and securities held in their portfolio and to utilize the proceeds for their need based requirement;
  - ii. Their demat accounts to be defreezed.
  - iii. They be allowed to deal in mutual funds and bonds.
  - iv. The charges imposed against them be withdrawn.

**(10) Mr. Sudarshan Kumar Sachdeva, Ms. Vijay Laxmi Sachdeva, Mr. Sanjay**

**Sachdeva, Mr. Anil Sachdeva, Mr. Ekta Sachdeva and Ms. Urvashi Sachdeva**

(Represented by Mr. Prakash Shah, Advocate):

- a) They invested from their own funds in the shares of Esteem. The same has been properly accounted and fully disclosed to all the authorities including Income tax and service tax departments.
- b) If they were party or aware of any scheme of manipulation, they would have sold shares of Esteem at the highest possible price in the market and exited from the scrip.
- c) The transactions were executed through the normal screen based trading of stock exchange, where it is not possible to know counterparties.
- d) Their sale quantity of shares was only a minuscule percentage of the total market volume in the scrip and their sale was at the then prevailing market price.
- e) They have no relation/financial dealings with Esteem or its promoters, directors, employee, *Funding group*, *Trading group*, Merchant banker or any person/entities named in the *interim order*, except the relationship with their family members. They denied the alleged contravention of the provisions of PFUTP Regulations.
- f) SEBI has not provided them any cogent evidence with respect to unsubstantiated and sweeping allegation levelled against them. A grave charge of *fraud* has been levelled against them and under the garb of '*preventive and remedial measure*' and an unilateral open ended restraint has been continuing against them. They cited the cases of *Sterlite Industries (India) Ltd. v. SEBI* [(2001) 34 SCL 485(SAT)] and *Parsoli Corporation vs. SEBI* (decided by Hon'ble SAT in Appeal No. 146/2011 dated 12.08.2011) in this regard.
- g) Their transactions in the scrip of Esteem are genuine, being a *bona fide* investor, with the objective to avoid any litigation/harassment/inconvenience from authorities as they paid income taxes on their transactions in the scrip of Esteem without claiming any deductions at the rate of 33.99%. Therefore the question of avoidance of tax does not arise in their case.
- h) SEBI has not identified, delineated or outlined any connection between them and the *preferential allottees, pre IPO transferees*, Esteem, its promoters/directors/management or any alleged connected entity.
- i) The *interim order* has recorded a single instance or observation with respect to their specific role.
- j) They had invested in the scrip based on the future prospects and growth potential and not the present financials of the company. They were advised by Mr. Madan Gopal Sharma to invest in the shares of Esteem by portraying a bright future of the said company and the industry as a whole.
- k) The *interim order* is in gross violation of the cardinal rule of '*audi alteram partem*' and therefore violated basic principles of equity, fair play and natural justice. The open ended restraint order against them is breach of fundamental right of carrying business bestowed upon every citizen under Constitution of India. They have cited the judgment of the

Hon'ble Supreme Court in *Canara Bank and Ors vs. Shri Debasis Das and Ors* [Appeal (Civil) 7539 of 1999] decided on March 12, 2003.

- l) They denied the alleged violation of the provisions of section 12A (a) (b) (c) of SEBI Act, 1992 and regulation 3 (a), (b), (c), (d) along with regulations 4(1), 4(2) (a), (b), (c), (d), (e) and (g) of the PFUTP Regulations.
- m) SEBI has failed to establish their nexus with Esteem, its promoters and other connected entities. They referred to section 101 of the Indian Evidences Act, 1872 and cited a judgment of the Hon'ble Supreme Court in *Nusli Wadia v. New India Assurance Company* (2008) 3 SCC 279.
- n) As a consequences of *interim order*, their demat accounts were frozen and SEBI has acted beyond its scope and purview and power. Demat accounts should be treated alike and akin to bank accounts and SEBI needs to follow the due process of law by securing prior approval of a Judicial Magistrate.
- o) They requested for the following:
  - i. The proceedings initiated against them be dropped.
  - ii. They requested to permit them to deal in the shares and securities, except in the scrip of Esteem till passing of final order.
  - iii. They requested to allow them to sell the shares held in their portfolio and use the proceeds for their need based requirements.

**(11) Mr. Arun Kumar Jain** (Represented by Ms. Prachi Pandya, Advocate):

- a) The investigation period as per the *interim order* was from January 01, 2013 to December 31, 2014. However, he had purchased 10,000 shares from Goldline on June 30, 2012, which was on a date outside the scope of investigation period.
- b) He had purchased shares of Esteem out of his genuine and *bona fide* income. He had not sold shares at the highest price. His sell orders were executed on the anonymous screen based trading and he is not aware of the counterparty buyer.
- c) The charges under section 12A of SEBI Act and Regulations 3 and 4 of PFUTP Regulations has been levelled against him without any documentary or conclusive evidence. He referred to the orders of the Hon'ble SAT in the matters of *Networth Stock Broking Ltd v. SEBI* and *Agony Finance and Investment Ltd v. SEBI*.
- d) He paid tax on the long term capital gain even though the same is not payable under the Income Tax laws.
- e) He had no role to play in any corporate actions undertaken by Esteem or any other company mentioned in the order.
- f) There have been grave miscarriage of justice and violation of natural justice *qua* him by the passing the *interim order*.
- g) His name is not found to be connected directly or indirectly to any other entities named in the *interim order*.

h) He requested that the *interim order* against him be withdrawn.

(12) **Mr. Manoj Singhal** (Represented by Mr. Prakash Shah, Advocate):

- a) The said order is passed in defiance of principles of natural justice as an opportunity of personal hearing was not provided before passing the order and there was no emergent situation for passing the said order in exercise of powers under section 11 and 11(B) of the SEBI Act.
- b) The open restraint order is breach of fundamental right of carrying business under Article 19 (1) (g) of the Constitution of India.
- c) Investment in CNE shares is in the nature of 'share trading activity' and the profit earned on the dealings in CNE shares forms part of 'Business Income'. Hence, the profit earned thereon does not constitute Capital Gain and has not entitled any exemption as per section 10(38) of Income Tax Act, 1961. Further, he has submitted that holdings held by him was declared as 'stock in trade' in the financial accounts and statements filed with revenue authorities. All applicable and statutory levies and taxes have been paid. Hence, there is no avoidance of tax or non-payment of long term capital gain tax.
- d) The alleged *modus operandi* or game plan is beyond wildest imagination, comprehension and conception as he has not provided any financial service to anyone.
- e) All transactions were done as per the rules and regulations as laid out by the regulator from time to time.
- f) The investment in the shares of CNE is from the legitimate income. The investment is on the basis of future prospects and growth potential of the company and not the present financials of the company.
- g) He does not have any link/connection/nexus with CNE, or its promoter/directors, other *Pre IPO Transferees* or the entities of *Funding Group, Trading Group* and Merchant Banker.
- h) He has not employed any manipulative or deceptive device, scheme or artifice to defraud and not violated regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2) (a), 4(2) (b), 4(2) (c), 4(2) (d), 4(2) (e) and 4(2) (g) of PFUTP Regulations and the provisions of section 12A of the SEBI Act.
- i) The *ex parte* order is totally silent on specific role in relation to alleged scheme by CNE. It is untenable to arrive at a grave finding of *fraud* without demonstrating any connection and merely on the basis of being a preferential allottee of CNE. He relied on the judgment of the Hon'ble SAT in the matter of *Sterlite Industries (India) Ltd Vs SEBI* (2001) 34 SCL 485 (SAT) and submitted that the order should not be passed on the basis of conjectures, surmises and probabilities.
- j) He also submitted that in the light of Hon'ble SAT judgement in the matter of *Parsoli Corporation Vs SEBI* (Appeal No. 146/2011 dated 12/08/2011), strict proof was required for a serious charge of fraud. In the matter of *Nusli Wadia Vs New India Assurance*

*Company* (2008) 3 SCC 279, while referring to section 101 of Indian Evidence Act, 1872, submitted that the burden of proof rests on party who asserts.

- k) He requested the following:
- i. *Interim order* passed against him be made inoperative
  - ii. The allegations be quashed and he may be discharged at the earliest.
- (13) **Mr. Kapil Sachdeva, Mr. Gaurav Sachdeva** (Represented by Mr. Prakash Shah, Advocate), **Mr. Bhupinder Kaur, Mr. Harcharan Singh** (Represented by Mr. Bharat Redij, Advocate) and **Dinesh Agarwal HUF** (Represented by Mr. Prakash Shah, Advocate):
- a) They do not have any link/connection/nexus with CNE, or its promoter/directors, other *Pre IPO Transferees* or the entities of *Funding Group, Trading Group* and Merchant Banker.
  - b) The investment in the shares of CNE is from the legitimate income. The investment is on the advice of his father Mr. Mohinder Paul Sachdeva considering future prospects & growth potential of the company and not the present financials of the company.
  - c) They are not aware of counterparties to the trades and the same is not possible to be known in the screen based mechanism of stock exchanges.
  - d) The shares are sold at the then prevailing market price and their volume was diminutive so as to have impact on the price of the scrip.
  - e) They denied committing the acts and omissions which have been treated as fraudulent and denied violating the provisions of the PFUTP Regulations and SEBI Act as alleged in the *interim order*. They contended that they did not employ any device, scheme or artifice to defraud in connection with dealing in or the issue of CNE.
  - f) They contended that the principles of natural justice was violated while passing the *interim order*. They quoted the judgment of Hon'ble Supreme Court of India in the case of *Canara Bank and Ors Vs Shri Debasis Das and Ors* [Appeal (Civil) 7539 of 1999] decided on 12.03.2003. Dinesh Agarwal HUF relied on the judgements in the matter of *Painter Vs Liverpool Oil Gas Light Co [(1836) 3A & E 433]*, *A.R. Antulay Vs R.S. Nayak [(1988) 2SCC 602]*, *State of AP Vs Nagam Chandrashekhar Lingam and Collector of Customs Vs Bibuti Bhushan Bagh*.
  - g) The open restraint order was in breach of fundamental right of carrying business under Article 19 (g) of the Constitution of India.
  - h) They relied on the decision of Hon'ble SAT in the matter of *Sterlite Industries (India) Ltd Vs SEBI* (2001) 34 SCL 485 (SAT) and contended that the order should not be passed on the basis of conjectures, surmises and probabilities.
  - i) They have submitted that strict proof and compelling evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in *Parsoli Corporation vs SEBI*.

- j) They also referred to the judgment in *Nusli Wadia Vs New India Assurance Company* (2008) 3 SCC 279 and section 101 of Indian Evidence Act, 1872 and submitted that the burden of proof rests on party who asserts.
- k) By freezing their demat accounts, SEBI acted beyond its scope, purview and power assigned to it and transgressed the power delegated to it by the Parliament of India.
- l) They have complied with all procedure and requirements of the capital market and ensured it has been done as per rules and regulations which govern the securities market.
- m) There is no idea of any alleged manipulative *modus operandi* by any entity in CNE mentioned in the order and not a part of any fraudulent scheme, devise, artifice as alleged in the order.
- n) SEBI erroneously linked them with certain entities as mentioned in the *interim order* as there were no common Know Your Client details, bank statements, off market transactions with any of the entities mentioned in the order.
- o) None of their transactions and dealings in CNE have caused any loss, harm and injury to anyone and the market at large. They have complied with all procedure and requirements of the capital market and there is no investor complaint with respect to dealings in CNE.
- p) They requested for the following:
  - i. *Interim order* as far as applicable to them be made inoperative.
  - ii. The allegation and charges against them be dropped and they may be discharged at the earliest.
  - iii. They may be allowed to sell the shares and securities held in their portfolio and use the entire proceeds for their need based requirements.

**(14) Mr. Shreyans Sankhwal, Mr. Arun Sankhwal, Mr. Madhu Sankhwal and Ms. Sarika Sankhwal:** (Represented by Ms. Deepika Vijay Sawhney, Advocate):

- a) They invested in the ordinary course of business from own funds on the basis of industry concerned, future prospects, expansion projects, financials etc.
- b) There is nothing fraudulent or manipulative in their transactions.
- c) They do not have link/ connection/ nexus/ with alleged *trading group/ funding group/ other preferential allottees/ pre IPO transferees/ promoters* of CNE and other traded entities mentioned in the order.
- d) The money received through sale of shares were utilized for business and financial purpose and not transferred directly/ indirectly to any of the entities including alleged *trading group/ funding group/ other preferential allottees/ pre IPO transferees/ promoters* of CNE and other entities in the matter of CNE.
- e) The profit made out of sale are legal in the eyes of law and section 10(38) of the Income Tax Act, 1961 provides exemption on any gain arising out of the transfer of equity shares provided securities transaction is paid.

- f) There is no evidence on record to show that there was a premeditated arrangement with any of the groups mentioned in the order on the basis of impermissible assumptions.
- g) The transactions were not based on any premeditated understanding, plan, device or artifice.
- h) They are not aware of any fabricated plans of the company and the profitable exit given to their shares.
- i) They are not concerted with any of the groups mentioned in the order. The allegations pertaining to ill-gotten gains is not backed by any substantiation and is based on presumption.
- j) The act of buying and selling are not fraudulent and they have not violated PFUTP Regulations and the provisions of the SEBI Act.
- k) In the light of judgement of Hon'ble SAT in the matter *Sanman Consultants Vs SEBI* (2001) 30 SCL 45, mere purchase and sale cannot be considered as manipulation.
- l) The decision of Hon'ble SAT in the matter of *Sterlite Industries (India) Ltd Vs SEBI* (2001) 34 SCL 485 (SAT) was referred and they submitted that the order should not be passed on the basis of conjectures, surmises and probabilities.
- m) The *interim order* has imputed fraudulent behaviour based on impermissible assumptions without supporting the assumptions with cogent evidence and in this regard the order of Hon'ble SAT in the matter of *KSL Industries Ltd vs SEBI* (Appeal no. 9 of 2003 dated September 30, 2003) was cited.
- n) They requested for the following:
  - i. They may be relieved of the directions.
  - ii. To permit them to deal in the securities market.
  - iii. To un-freeze their demat accounts and to allow them to deal, buy, sell in securities market without any restriction till passing of final order.

(15) **Mr. Rajan Sahni and Mr. Navin Sahni** (Represented by Ms. Vaneesa Abhishek, Advocate):

- a) They denied violating regulations 3 and 4 of the PFUTP Regulations and the provisions of section 12A of SEBI Act.
- b) The *interim order* was passed in defiance of the principles of natural justice as an opportunity of personal hearing was not provided before passing the order. There was no emergent situation to issue directions under section 11 and 11(B) of the SEBI Act and such power has to be exercised judiciously.
- c) The directions under sections 11 and 11B of the SEBI Act are issued for safeguarding the markets and are not available for penalizing the persons and denying their legal rights on the basis of assumptions and presumptions.
- d) The investment in the shares of CNE was from their own funds and on the advice of a Financial Advisor.

- e) The money received through sale of shares were utilized for business and financial purpose and not transferred directly/ indirectly to any of the entities including alleged *trading group/ funding group/ other preferential allottees/ pre IPO transferees/ promoters of CNE* or other who traded in the shares of CNE.
- f) They are not aware of the counterparties to the trades and the same was not possible to be known in the screen based mechanism of stock exchanges.
- g) They do not have link/ connection/ nexus with alleged *trading group/ funding group/ other preferential allottees/ pre IPO transferees/ promoters of CNE* and other entities mentioned in the order.
- h) Preferential allotment made by the company was approved by the shareholders of the company and the same was brought to the knowledge of the stock exchanges and SEBI. The details of the same were in public domain and nobody raised any grievance during that period.
- i) The stock exchange or SEBI had not raised any alarm as to price movement in the scrip on the basis of the same not being in consonance with its financials or fundamentals.
- j) The observations in the *interim order* were not specific and no basis was brought on record to show that they all were in hand in glove with each other.
- k) The purported analysis was totally flawed and based on mere surmises and conjectures and sweeping generalisations were made, ignoring and overlooking the correct factual position.
- l) They requested for the following:
  - i. The *interim order* be reconsidered and directions be withdrawn.
  - ii. They may be permitted to deal in the securities market.
  - iii. The demat account/s be unfrozen and allow them to sell the shares other than impugned scrip to utilise the sale proceeds for their requirements.

(16) **Mr. V. Balasubramaniam and Ms. B. Rajeshwari:** (Represented by Ms. Rishika Harish, Advocate and Mr. Aditya Bhansali)

- a) There is no evidence or basis regarding the role played by them/ preferential allottees or any connection established with entities in the alleged manipulative scheme mentioned in the order. Failure to provide such material is bad and contrary to the settled principles of natural justice.
- b) The order completely ignored the factual position that preferential allottees had no role to play in the fraudulent scheme. The order completely neglects the fact that the alleged scheme of manipulation might have been floated for the benefit of *IPO allottees* along with any other persons.
- c) Their clients had investment in the shares of CNE on the basis of yielding profits.
- d) The order neither contains any specific charge against them nor explains the role played by them in the alleged manipulation. They cited the judgement in the matter of *Shanker*

*Goyal and Ors Vs The Municipal Council, Ajmer* AIR1997Raj176 and submitted that every piece of evidence to justify issuance of an ad *interim order*.

- e) There is no material provided in the *interim order* to establish that the alleged injury/ harm caused to the securities market/ to the public at large and in this regard referred to the judgement in the matter of *Multichannel (India) Ltd, Mumbai Vs Kavitalaya Productions Pvt Ltd, Chennai*.
- f) They submitted that their investment in the shares of CNE was from legitimate income and was done on the basis of bright future prospects.
- g) They do not have any relation/connection with CNE, its Directors/ Promoters, the *Funding or Trading group* of entities or with the company or any other entities mentioned in the order.
- h) They submitted that the *interim order* was passed on the basis of conjectures, surmises and probabilities and referred to the following judgements:
  - i. *Sterlite Industries (India) Ltd Vs SEBI* (2001) 34 SCL 485 (SAT).
  - ii. *Mohan Singh Vs Bhanwarlal* (AIR 1964 SC 1366)
  - iii. *Ramjanbhai Nagribhai Patel Vs Jasvant Singh Udersingh Dabhi* (AIR 1978 SC 1162)
  - iv. *Varanasaya Sanskrit Vishwa Vidyalaya & Anr. Vs. Dr. Rajkishore Tripathi and Anr,* (AIR 1977 SC 615)

**(17) Mr. Vikas Raj** (Appeared in person):

- a) The interim order was passed in defiance of the principles of natural justice, equity and fair play without seeking any explanation from him before passing the order.
- b) He had invested in the shares of CNE on the basis of bright future prospects.
- c) He is a *bona fide* investor and has no connection/ relation with any of the entities of the *Funding Group/ Trading Group* as mentioned in the order.
- d) The money received through sale of shares was utilized for repayment of outstanding loans and investments.
- e) The order is baseless and unfounded that there was no documentary evidence w.r.t. prior understanding and arrangement by the promoters/ directors with preferential allottees.
- f) The *interim order* arbitrarily discriminates without any reasonable classification and SEBI has not acted in conformity with the principles of Article 14 of the Constitution of India by drawing a line of Rs.1Cr profit and more.
- g) He denied the alleged violation/contravention of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulations 3 and 4 of PFUTP Regulations. The noticee submitted that he did not employ any device, scheme or artifice to defraud in connection with dealing in or issue of CNE.
- h) He requested for the following:
  - i. The directions issued against him be withdrawn.
  - ii. He requested to allow him to redeem his investments in shares, mutual funds etc.

**(18) Mr. Sudhir Agarwal: (Appeared in person)**

- a) The said Order was passed in defiance of principles of natural justice, equity and fair play without seeking any explanation before passing the order.
- b) He had invested in the shares of CNE on the basis of bright future prospects.
- c) Shares were sold on the anonymous trading platform of the stock exchange at different dates and different prices wherein the identity of counterparty is not disclosed. Hence, he denied the allegation that he was provided profitable exit as mentioned in the *interim order*.
- d) The *interim order* arbitrarily discriminates without any reasonable classification and SEBI has not acted in conformity with the principles of Article 14 of the Constitution of India by drawing a line of Rs.1Cr profit and more.
- e) The order claims that there was prior understanding and arrangement without any factual basis or documentary evidence.
- f) He has never used the securities market system to artificially increase volume and price of the scrip for making illegal gains into genuine one.
- g) He denied the alleged violation/contravention of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulations 3 and 4 of PFUTP Regulations. The noticee submitted that he did not employ any device, scheme or artifice to defraud in connection with dealing in or issue of CNE. He denied having any pre understanding/arrangement with CNE and its directors/promoters.
- h) He requested for the following :
  - i. The directions issued against him be withdrawn.
  - ii. He requested to allow him to deal in securities.
  - iii. He also requested to allow him to sell the shares and securities held in his portfolio and use the entire proceeds.

**(19) Mr. Chetan Kunvarjibhai Thakkar (Represented by Mr. Anish G Kharidia, CS, Mr. Atul Chokshi, Mr. Deval Sheth, CA, Mr. Vinay Chauhan, Advocate and Mr. K C Jacob Advocates):**

- a) The allegations made in the order shall not be deemed to be admitted merely on account of non-traverse. He submitted that he did not violate any of the provisions of regulations 3 or 4 of the PFUTP Regulations or provisions of SEBI Act.
- b) The *interim order* was passed in defiance of the principles of natural justice as an opportunity of personal hearing was not provided before passing the order.
- c) His participation in the securities market and commodities market is always on the basis of his perception and judgement. His investment in the scrip through preferential allotment was out of his funds.
- d) On the basis of investment in preferential allotment before listing of shares on the

exchange and later price rise having poor performance and weak fundamentals, cannot be alleged as '*prior understanding, arrangement and purpose*' with CNE or its promoters/ directors.

- e) He is not aware of price rise and not involved in listing of the shares on the stock exchange or in the trading of the shares during the alleged price rise period.
- f) There are no records establishing relation/ connection/ nexus with connected entities, *funding group* entities, *trading group*.
- g) The observations made in the order that *trading group* entities provided a huge profitable exit are bald, sweeping and that nothing is there on record to bring out any nexus between him and others.
- h) His sale cannot be viewed suspicious as the alleged increase in price was manipulatively done by the trading group entities and he has no connection with those entities.
- i) Profits were made by selling shares in the ordinary course of business only and hence no adverse inferences can be drawn against him.
- j) He is not aware of financing by company for its own IPO to the *Funding Group*.
- k) The allegation with regard to premeditated arrangement between him and others (*viz* preferential allottees, Pre-IPO transferees, Trading group and Funding group entities) was baseless and completely contrary to factual position on record.
- l) The earnings made by sale of shares after one year are *bona fide* for which the law provides the facility of Long Term Capital Gain (LTCG) and the allegation of *misusing stock exchange system to artificially increasing volume and price and thereby making illegal gains by converting ill-gotten gains into genuine gains* are being coined as tainted one merely on conjectures, surmises and flimsy grounds which are completely baseless and devoid of factual legal.
- m) He denied employing any scheme, plan, device and artifice and also the allegations money laundering and tax evasion. He denied violating the provisions of regulations 3 and 4 of the PFUTP Regulations and section 12A (a), (b) and (c) of SEBI Act.
- n) He does not have relation with directors of CNE and nothing has been brought into the record with regard to connection with the company/ directors.
- o) He has submitted that there are inconsistencies in the trade data furnished by SEBI and his contract notes received from the broker. He has also pointed that the traded volume of shares are same as per BSE website and the data furnished by SEBI.
- p) He was erroneously clubbed with others and deprived of accessing the securities market and dealing in securities market. His continuation in the market would not in any manner shake the confidence of investors in the market.
- q) The directions passed are unjustified, unwarranted and untenable. The loss of reputation as a result of this order would severely impede the business in future. The prohibition, directly or indirectly from buying, selling and dealing in securities was a draconian direction which throttles his business and crippled the operations.
- r) He prayed for the following:

- i. The prohibitive directions passed against him be withdrawn and to allow him to deal in securities.
- ii. to unfreeze the demat account or alternatively permit him to sell shareholding in scrips other than the impugned scrip and to utilise the sales proceeds for *bona fide* needs and requirements.
- iii. Prohibitive directions be restricted to the dealing in the impugned scrip only and not to be extended to commodities trading.
- iv. to allow him to sell the remaining 1,49,500 shares of CNE.

**(20) Mr. Prithvi Sudhir Vora (Represented by Mr. Khamir Kamdar Advocate):**

- a) The *interim order* is passed in defiance of principles of natural justice as an opportunity of personal hearing was not provided before passing the order.
- b) The order is passed merely on the basis of suspicion, doubts, surmises, presumptions, assumptions, inference and conjectures without any evidence. Erroneously inclusion of his name in the order has caused grave, serious and undue hardship to him.
- c) He had purchased the shares of CNE with his own funds in a good faith and for valuable consideration, with an intention to make profit.
- d) He is not responsible for the issue of bonus shares or to come out with IPO by CNE and price rise in the scrip.
- e) He denied acts and omissions which have been treated as fraudulent and had not violated 3(a), 3(b), 3(c), 3(d), 4(2) (a), 4(2) (b), 4(2) (c), 4(2) (d), 4(2) (e) & 4(2) (g) of PFUTP Regulations and not contravened the provisions of section 12A of the SEBI Act. He has not employed any device, scheme or artifice to defraud in connection with dealing in or issue of CNE
- f) He does not have any link/connection/nexus with the entities of Funding Group and Trading Group.
- g) He prayed for the following:
  - i. Requested to *interim order* passed against him be set aside
  - ii. Request to unfreeze demat account
  - iii. Allow him to buy, sell or deal in securities either directly or indirectly.

**(21) Mr. Sushant Mutreja (Appeared in person):**

- a) The said Order is passed in defiance of principles of natural justice as an opportunity of personal hearing was not provided before passing the order. There was no emergent situation to issue directions under section 11 and 11(B) of the SEBI Act which has to be exercised judiciously.
- b) The investment in the shares of CNE was from his own funds and on the advice of Mr. Sudhir Agarwal (Chartered Accountant) and Mr. Vikas Raj on the basis of bright future prospects such as tie-up with old and famous Australian company/ channel etc.

- c) He is not involved in any type of manipulative, fraudulent trading and unfair trade practice or any type of price rigging nor part of trading group/ funding group.
- d) It is an arbitrary discrimination without any reasonable classification and in violation of Article 14 of the Constitution of India by drawing a line of 1 crore profit and more without any basis.
- e) The order claims prior understanding and arrangements without any factual basis. It is a grave consequence including deprivation of right to carry investment activities. No effort has been made by SEBI to say prior understanding and arrangement without any documentary evidence.
- f) The money received through sale of shares were utilized for business and financial purpose and not transferred directly/ indirectly to any of the entities including alleged trading group/ funding group/ other preferential allottees/ pre IPO transferees/ promoters of CNE and other traded entities in CNE.
- g) He is not aware of counterparties to the trades.
- h) He does not have link/ connection/ nexus with alleged trading group/ funding group/ other preferential allottees/ pre IPO transferees/ promoters of CNE and other traded entities mentioned in the order.
- i) He denied acts and omissions which have been treated as fraudulent and violation of Regulation 3(a), 3(b), 3(c), 3(d), 4(2) (a), 4(2) (b), 4(2) (c), 4(2) (d), 4(2) (e) & 4(2) (g) of PFUTP Regulations and not contravened the provisions of section 12A of the SEBI Act.
- j) He requested to revoke the directions passed against him.

**(22) Ms. Vidushi Kothari** (Represented by Mr. Abhishek Borgikar, Advocate and Mr. Soodhir Jain):

- a) She is a visually disabled and therefore her grandfather Mr. Trilok Chand Kothari being the Karta and senior most member of the family used to take all financial decisions and handle her accounts. Further, though the shares of the HPC were purchased through off- market transaction, she has no connection with the seller i.e. All Time Buildtech Pvt. Limited, its promoters and directors or even with the promoters/directors of HPC Biosciences Limited.
- b) Being visually disabled, she relied on Mr. Trilok Chand Kothari's decisions and had acted on his instructions for signing the document without going through the documents or having knowledge of it.
- c) The money for purchasing the shares of the Company was received from family trust and the proceeds received from sale of shares were kept as Fixed Deposits with State Bank of Bikaner and Jaipur and then invested in purchasing a flat at Gurgaon.
- d) She has no connection with the promoters/directors of the HPC, Funding Group, Trading Group and Merchant Banker of HPC.

**(23) Ms. Geeta Gupta:** (Represented by Mr. Prakash Shah, Advocate)

- a) The *interim order* merely records vague allegation against her. There is not a single instance or observation on specific role of her is delineated in the entire *interim order*; thus, such an approach is arbitrary, unjust and hence bad in law.
- b) She has denied the charges made against her, specifically in paragraph 45 of the *interim order*.
- c) The said Order is passed in defiance of principles of natural justice as an opportunity of personal hearing was not provided before passing the order and there was no emergent situation, necessity or rationalization for passing the said order in exercise of powers under section 11(1), 11(4) and 11(B) of the SEBI Act.
- d) SEBI passed a common order against 239 entities, including her and hence she is unable to reconcile and understand what adverse findings are alleged against her. Also, she has bundled with other alleged entities whereas its dealing in HPC is completely dissimilar, distinct and separate from other entities mentioned in *interim order*.
- e) It is further submitted that an open ended restraint order against the her is breach of fundamental right of carrying business under Article 19(1)(g) of the Constitution of India.
- f) It is also submitted that the alleged connection of her with the Promoters of the HPC and other entities is mentioned in the *interim order*, however at no place any connection has been established between her and any promoter/ director of HPC. Further, she has no financial dealings or nexus with the alleged HPC group or its promoters, directors or key management persons and has no connection with respect to any other activity in the Company.
- g) It is alleged in the order that certain entities who had invested in the HPC got back the monies invested by them through loans or payments by the Company. She has not received back a single rupee of the amount invested by her from HPC or any of its allegedly connected entity. It is further stated that she is not connected or related with alleged 'Funding Group'.
- h) It is alleged in the order that there were a set of connected entities which were influencing the price of HPC viz. 'Trading Group' and it further gives a list of entities belonging to the alleged group. In this regard she has submitted that her name does not appear in the said list and also she is not connected with the buyer of its shares.
- i) She is not connected in any manner whatsoever with the Merchant Banker of HPC viz. Guinness Corporate Advisors Limited.
- j) The allegations are sweeping, bald and common. There has been no attempt to examine her particular and individual role in the matter. Further, the *interim order* is based on surmises, conjectures, probabilities and hypothesis.
- k) At the time of inspection of documents carried out on 24.02.2016, she had specifically requested SEBI to provide with the details and documents in possession with SEBI to prove the sort or nature of 'prior understanding; 'arrangement' or 'connection' existed

between her and the Company. However, she was provided only with Trade Log and Order Log of HPC during relevant period and prospectus of HPC.

- l) The Order “Pre—supposes” and presumes a nexus between her and the Promoters, Promoter related entities of HPC or the alleged Exit Providers and the order is highly subjective in its approach as far as she is concerned. Therefore, merely the Company had allotted Preferential Shares to her cannot be presumed or pre- supposed that she had a nexus, link or relationship with the Company.
- m) She had invested in the Company based on its future prospects and growth potential. She had purchased the shares with its legitimate source of income. Being regular Income Tax Assesse she is filing the Income Tax returns regularly, paying taxes dues on income, had never defaulted in filing income tax returns or depositing tax due thereon. Further, the sale and purchase of the shares has been properly accounted and fully disclosed to all the authorities.
- n) She regularly monitors her investment and when value of investment in the company appeared to be at high, she realized that it was appropriate time to sell and she sold the shares on the market.
- o) She was not part of any wrong doing and genuinely had no idea of any *modus operandi* by any group/entity as alleged or otherwise. Her sale transactions of shares of the company were delivery based and had met with all obligations towards the market.
- p) She had sold the shares of HPC which is a miniscule percentage of the total market volume in the scrip at the relevant point of time. Further, her sale in HPC shares was at the prevailing market price and it had fail to understand as to how the transactions were fraudulent in nature as the volume and price of HPC were not affected by her dealings in the said scrip.
- q) She denied the alleged violation of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d) along with Regulations 4 (1), 4(2) (a), (b), (c), (d), (e) and (g) of the PFUTP Regulations, 2003.
- r) As a consequence of aforesaid *interim order*, her demat account has been frozen.
- s) SEBI has acted beyond its scope and purview and power assigned to it and transgressed the power delegated to it.
- t) It is wholly untenable for any authority to arrive at a finding of fraud solely on the basis that shares of HPC were allotted on a preferential basis to her. Further, the strict proof and compelling evidence is required for a serious charge of fraud.
- u) The present Order is in gross violation of the basic principles of '*audi alteram partem*'.
- v) The findings of investigation does not substantiate *prima facie* charges against her. Further the continuance of her trading activity in the securities market is not likely to be detrimental to the interest of the investor and that the period of prohibition already undergone by her is quite substantial and meets the ends of justice.
- w) The Noticee prayed for the following:

1. She may be allowed to sell the shares and securities held in her portfolio and use the entire proceeds for the need based requirements.
2. *Interim order* as far as applicable to her be made inoperative.
3. The allegation and charges against her be dropped and it may be discharged at the earliest.

**(24) Ms. Nandini Pasari:** (Represented by Mr. Prakash Shah, Advocate)

- i. The present Order is issued to her without any prior communication, notice, letter or any correspondence seeking explanation or clarification and hence the said order is in gross violation of the basic principles of '*audi alteram partem*'.
- ii. Without providing any justification, rationalization, details and documents and without seeking her explanation in the present matter such penal action are slapped on her thereby causing great harm, damage, loss and prejudice to her.
- iii. There was no such emergent situation, necessity or rationalization for passing the said order in exercise of the powers under section 11(1), 11(4) and 11(B) of the SEBI Act.
- iv. An open ended restraint order against her is breach of fundamental right of carrying on business bestowed upon every citizen under the Constitution of India.
- v. SEBI has made sweeping, bald and random observations against her. She has no connection or relationship with the alleged 'Trading Group' and any other entities mentioned in the order.
- vi. She is a regular Income Tax Assessee and is filing its Income Tax returns regularly, paying taxes dues on its income, never defaulted in filing income tax returns or depositing tax due thereon. Further, the sale and purchase of the shares has been properly accounted and fully disclosed to all the authorities.
- vii. She has no relation or financial dealings with the group, promoters, directors or employees of HPC and her investments was as a common investor. Also, the allegation of use/misuse of funds, if any, by HPC out of the fund raised is not applicable to her, as there is no fund movement of her with the HPC or any of the alleged connected entities to HPC.
- viii. She had no idea of any alleged manipulative *modus operandi* by any entity in HPC and was not part of any game plan, fraudulent scheme, device or artifice as alleged or otherwise.
- ix. She regularly monitors her investment and when value of investment in the company appeared to be at peak, she realized that it was appropriate time to sell and reinvest funds in other profitable option.
- x. All her transactions of shares of the company were delivery based and had met with all its obligations towards the market.
- xi. She denied the alleged violation of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d) along with Regulations 4(1), 4(2) (a), (b), (c), (d), (e) and (g) of PFUTP Regulations, 2003.

- xii. It is untenable for any authority to arrive at a finding of fraud that too on *prima facie* findings, without demonstrating any connection of whatsoever nature.
- xiii. She has no connection of whatsoever with *Preferential Allottees*, pre IPO transferees, HPC and any of its alleged connected entities.
- xiv. The order is based on surmises, conjectures, probabilities and hypothesis.
- xv. Vide its letters dated 31.08.2015 and 17.10.2015 , she has specifically requested SEBI to provide it with the details and documents in possession with SEBI to prove what sort or nature of ‘prior understanding’, ‘arrangement’ or ‘connection’ existed between me and preferential Allottees & the Company. However, vide SEBI’s letter dated October 30, 2015, she was informed that “all the documents relevant to you have been relied upon by SEBI while passing an *Interim order* has already been provided to you at the time of inspection”. She was provided only with the Trade and Order Log file, Prospectus of HPC, list of shareholders at the time of listing of HPC and pre-IPO transferees.
- xvi. Vide letter dated November 07, 2015, she again reiterated the request and sought SEBI’s confirmation with regard to any details and documents relied upon by SEBI in making such unsubstantiated allegation against her; However, till date, no documents, detail or information has been provided to her.
- xvii. The *Interim order* “Pre-supposes” and presumes a nexus between her and *preferential Allottee viz.* All Time Buildtech Pvt. Limited. It is further to submit that its investment decision in the shares of HPC was made by her which was independently based on the recommendation given to her by Mr. Sachin Tayal. Thus, merely and solely because she purchased shares of an unlisted company in off-market, it cannot be presumed or pre-supposed that it have a nexus, link or relationship with the said entity.
- xviii. Off market transaction are not illegal. The baseless and unwarranted inference drew in the *Interim order* which merely records unspecific and common allegation against her. Further, the generic allegations were recorded and not a single instance or observation on specific role of her is delineated in the entire *Interim order*; thus, such an approach is illegal, and bad in law.
- xix. When HPC came out with an IPO; the issue price was ₹35/- per share (i.e. a premium of ₹ 25/-) and when it got listed on 19.03.2013; the shares opened at a price of ₹37.25/- and reached a high of ₹39.10 with a daily volume of 5,20,000 shares on same day, which was clear indication that sentiment of investors was positive and market were taking the Company seriously.
- xx. She had no idea about buyer of her shares of HPC since all the transactions were executed through the normal screen based trading system of Stock Exchange.
- xxi. She had sold shares of HPC which is a minuscule percentage of the total market volume in the scrip at the relevant point of time. Further, her sale in HPC shares was at the prevailing market price and volume of its shares was diminutive so as to have any impact

on the price of the scrip. Therefore the allegation of any abuse of price manipulation is irrelevant, immaterial and misdirected.

- xxii. All her sale transactions in the shares of HPC were delivery based and had met with all its obligations towards the market and all her sale transactions were as per the rules and regulation, as laid out by the regulator from time to time.
- xxiii. The price of scrip rose to as high as ₹757.50/- in December 2014. Thus, if she was a part of any alleged '*modus operandi*' or 'manipulation', she would have waited for the price of scrip to get higher and sold the shares at the highest possible price which clearly isn't the case.
- xxiv. SEBI has passed a common order against 239 entities, including her, and in this regard she is unable to reconcile and understand what adverse findings are alleged against her. Also, she is bundled with others alleged with whom she has no connection of whatsoever nature and its dealing in HPC is completely dissimilar, distinct and separate from other entities mentioned in Order.
- xxv. SEBI has conveniently ignored the fundamental rule of '*Qui aliquid statuerit parte inaudita altera aequum licet dixerit, haud aequum fecerit*' which means he who determines any matter without hearing both the sides though he may have decided rightly, has not done justice.
- xxvi. *Ex parte* Order without specific and firm findings against Noticee is in utter disregard of law.
- xxvii. Section 11(4)(e) of SEBI Act mandates an approval from Judicial Magistrate for attachment of accounts, which is not obtained before attaching her demat accounts.
- xxviii. It is wholly untenable for any authority to arrive at a finding of fraud solely on the basis that shares of HPC were acquired by her in off market and sold the same on stock exchange. Further, the strict proof and compelling evidence is required for a serious charge of fraud.
- xxix. This is the first time that a regulatory proceedings is initiated against her for her dealing in the stock market. Thus, there is no continuous non-adherence to the law or repeated violations of any kind by her.
- xxx. She prayed for the following:
- (i) She may be allowed to sell the shares and securities held in her portfolio and use the entire proceeds for its need based requirements, wherein attention drew to the order of Amresh Modi and 2 others in the matter of Radford Global limited and in respect of Mr. Shrenik Zaveri in the matter of Mishka Finance and Trading Limited.
  - (ii) *Interim order* as far as applicable to her be made inoperative.
  - (iii) The allegation and charges against her be dropped and it may be discharged at the earliest.

**(25) Gaurav Garg & Family HUF** (Represented by Mr. Prakash Shah, Advocate):

- a) They dealt in the strip of HPC way back in July, 2014 and the passing of the order nearly after a one and half year all of sudden and out of the blue unjustified, unwarranted and bad in law.
- b) Some adverse inferences are drawn against them only because its sale orders in the shares of HPC incidentally got matched with the alleged entities without accepting the fact that it has no connection/relation of whatsoever nature with them. Further, no connection/relationship or meeting of minds with the counter party broker/ clients is evidenced in the *interim order*. Also, the alleged role and involvement of it in the present proceedings is totally misplaced and solely based on surmises and conjectures.
- c) It is further submitted that they regularly monitor their investment and when value of investment in the company appeared to be at peak, they realized that it was appropriate time to sell and reinvest funds in other profitable option.
- d) It is getting punished for earning gains in the market that is regulated by stock exchange and SEBI. It is the market mantra that everyone invests in capital market to earn profits and for capital growth and it has done the same without any malicious intentions.
- e) They had no idea about buyer of their shares of HPC since all the transactions were executed through the normal screen based trading system of Stock Exchange.
- f) They had no nexus in any manner whatsoever with HPC or any persons/entity named in the Order, had it been so, it is logical to assume that it would have purchased much higher number of shares to earn much higher profits.
- g) It had followed and complied with all the procedure and requirements of the capital market through its broker and stock exchanges. While making investments, they have always ensured that it is being done as per rules and regulations which govern capital market.
- h) There has been proper disclosure of the dealing in HPC shares as statutorily required and the same had been carried out in absolutely fair and transparent manner as required. Further, there has been no grievance by any investor, broker, stock exchange or any other agency concerned in the matter; Thus the allegation of SEBI that there transactions in the HPC are fraudulent in nature and alleged to be in violation of PFUTP regulations is absurd and lacks credentials, at the threshold itself.
- i) They had no idea of any manipulative *modus operandi* of any entity in the company as alleged or otherwise. Further, HPC issued its shares in compliance with all norms, procedures and guidelines of stock exchange and SEBI and no grievance, objection or cautionary notice was issued by stock exchange or SEBI to protect the interest of the investing shareholders, at that point in time.
- j) Further, they had paid for the shares and the same were allotted to it from its account. Similarly, they had deposited sale proceeds in its bank account and the same has been properly accounted and fully disclosed to the authorities including Income Tax and Service

Tax departments. Hence, the question of any money laundering or avoidance of Income Tax does not arise.

- k) They have no connection of whatsoever nature with the buyer of its shares of HPC, HPC group entities or HPC's promoters, directors or its employee. Further, except for making an application in the preferential allotment, they have absolutely no financial dealing with the HPC group.
- l) The transactions in HPC share were delivery based and they met with all obligations on the market. The same were also carried out at the then prevailing market price and there is no allegation of establishing New High Price (NHP) or that any trades had any impact on the Last traded price (LTP) of HPC BIO SCIENCE shares. Thus, allegation of any price manipulation is not applicable.
- m) The allegation of use/ misuse of funds, if any, by HPC out of fund raised through preferential issue are not applicable in their case, since undisputedly except making an application for its shares, they have no fund movement with the HPC or any of the alleged connected entities of HPC.
- n) They have no connection with any of the entities who are alleged to have played role in establishing NHP as mentioned in the *interim order*.
- o) Its bank account, the source of investment or outflow of this investment do not prove nexus between investor/ promoters or any other beneficiary.
- p) In view of the foregoing, it is evidently clear that it has been falsely implicated without any basis. Therefore, so far as they are concerned, *interim order* needs to be vacated.

**(26) Ms. Anjana Garg** (Represented by Mr. Prakash Shah, Advocate):

1. Besides recording common generic allegations against her, not a single instance or observation on specific role of her is delineated in the Order, such an approach is illegal and bad in law.
2. She has denied the charges made in the Para 45 of the *interim order* and also the statements and assertions generally made in the rest of the order.
3. The *interim order* was issued without any prior communication, notice, letter or any correspondence seeking explanation or clarification and hence the said order is in gross violation of the basic principles of natural justice.
4. There was no such emergent situation, necessity or rationale for passing the said order in exercise of powers under section 11(1), 11(4) and 11(B) of the SEBI Act.
5. SEBI has passed a Common Order against 239 entities, including her, and in this regard she is unable to reconcile and understand what adverse findings are alleged against her. Also, she is bundled with others alleged whereas her dealing in HPC is completely dissimilar, distinct and separate from other entities mentioned in Order.
6. An open ended restraint order against her is in breach of fundamental right of carrying on business bestowed upon every citizen under the Constitution of India.

7. She is not involved in any alleged *modus operandi* or manipulative activity with any of the entities named in the order. Also, she did not have any connection with the promoters/directors of HPC, alleged *Funding Group*, *Trading Group* or with Merchant Banker of HPC.
8. SEBI has made sweeping, bald and common observations against her, amongst others in the order and there has been no attempt to examine her particular and individual role in the matter. Further, the order is based on surmises, conjectures, probabilities and hypothesis.
9. The order seeks to create a tenuous and non-existent link between her on one hand and HPC, directors/promoters of HPC and other allegedly connected entities on the other side.
10. She has requested SEBI to provide her with the details and documents in possession with SEBI to prove the nature of 'prior understanding; 'arrangement' or 'connection' existed between her and the Company. However, she was provided only with Trade Log and Order Log of HPC during relevant period and Prospectus of HPC.
11. The Order "pre-supposes" and presumes a nexus between her and the Promoters, Promoter related entities of HPC or the alleged Exit Providers and the order is highly subjective in its approach as far as she is concerned. Therefore, merely by the Company allotting shares in a preferential issue to her cannot be presumed or pre- supposed that she had a nexus, link or relationship with the Company.
12. The investment decision in the shares of HPC was made by her which was independently based on the recommendation given to her by Mr. Sachin Tayal.
13. She has purchased shares with her legitimate source of income. Being a regular Income Tax Assesse she is filing Income Tax returns regularly, paying taxes dues on income, never defaulted in filing income tax returns or depositing tax due thereon. Further, the sale and purchase of the shares has been properly accounted and fully disclosed to all the authorities.
14. It is further submitted that she regularly monitors her investment and when value of its investment in the company appeared to be at peak, she realized that it was appropriate time to sell and as any other prudent person it sold the shares on the market.
15. She was not part of any wrong doing and genuinely had no idea of any *modus operandi* by any group/entity as alleged or otherwise. Her sale transactions of shares of the company were delivery based and had met with all her obligations towards the market.
16. She had sold shares of HPC which is a minuscule percentage of the total market volume in the scrip at the relevant point of time. Further, her sale in HPC shares was at the prevailing market price and volume of its shares was diminutive so as to have any impact on the price of the scrip, therefore the allegation of any abuse of price manipulation is irrelevant, immaterial and misdirected.
17. All her sale transactions were as per the rules and regulation as laid out by the regulator

from time to time.

18. She has denied the alleged violation of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d), 4 (1), 4(2) (a), (b), (c), (d), (e) and (g) of SEBI PFUTP Regulations, 2003.
19. She has dealt in the strip of HPC way back in July, 2014 and the passing of the order nearly after a one and a half year all of sudden and out of the blue was unjustified, unwarranted and bad in law.
20. Some adverse inferences are drawn against her only because its sale orders in the shares of HPC incidentally got matched with the alleged entities without accepting the fact that she has no connection/relation of whatsoever nature with them. Further, no connection / relationship or meeting of minds with the counter party broker / clients is evidenced in the interim order. Also, the alleged role and involvement of her in the present proceedings is totally misplaced and solely / merely based on surmises and conjectures.
21. She is getting punished for earning gains in the market that is regulated by stock exchange and SEBI. It is the market mantra that everyone invests in capital market to earn profits and for capital growth and she has done the same without any malicious intentions.
22. She had no idea about buyer of its shares of HPC since all the transactions were executed through the normal screen based trading system of Stock Exchange.
23. She had no nexus in any manner whatsoever with HPC or any persons/entity named in the Order, Had it been so, it would have been logical to assume that she would have purchased much higher number of shares to earn much higher profits.
24. She had followed and complied with all the procedure and requirements of the capital market through her broker and stock exchanges. While making investments, she has always ensured that it is being done as per rules and regulations which govern the capital market.
25. There has been proper disclosure of her dealings in HPC shares as statutorily required and it had been carried out in absolutely fair and transparent manner as required. Further, there has been no grievance by any investor, broker, stock exchange or any other agency concerned in the matter; Thus the allegation of SEBI that her transactions in the HPC are fraudulent in nature and alleged to be in violation of PFUTP regulations is absurd and lacks credentials at the threshold itself.
26. Further, HPC issued its shares in compliance with all norms, procedures and guidelines of stock exchange and SEBI and no grievance, objection or cautionary notice was issued by stock exchange or SEBI, to protect the interest of the investing shareholders at that point in time.
27. She had paid for the shares and the same were allotted to her from her account. Similarly, she had deposited sale proceeds in her bank account and the same has been properly accounted and fully disclosed to the authorities including Income Tax and Service Tax departments. Hence, any question of money laundering or avoidance of Income Tax does not arise in her case.

28. Except for making an application in the preferential allotment, she has absolutely no financial dealing with the HPC group.
29. Her transactions in HPC share was delivery based and she has met with all obligations on the market. The same were also carried out at the then prevailing market price and there is no allegation of establishing New High Price (NHP) or that any trades had any impact on the Last traded price (LTP) of HPC BIO SCIENCE shares. Thus allegation of any price manipulation is not applicable in her case.
30. The allegation of use / misuse of funds, if any, by HPC out of funds raised through preferential issue is not applicable in her case, since except for making an application for her shares, she has no fund movement with the HPC or any of the alleged connected entities of HPC.
31. She has no connection with any of the entities who are alleged to have played role in establishing new high price as mentioned in the interim order.
32. She has submitted that looking at her bank account, the source of investment or outflow of this investment do not prove nexus between her and promoters or with any other beneficiary.
33. She has been falsely implicated without any basis. Therefore, so far as she is concerned, the *interim order* needs to be vacated.
34. Section 11(4)(e) of SEBI Act mandates an approval from Judicial Magistrate for attachment of accounts, which is not obtained before attaching her demat accounts.
35. It is wholly untenable for any authority to arrive at a finding of fraud solely on the basis that shares of HPC were allotted on a preferential basis to her. Further, the strict proof and cogent evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in *Parsoli Corporation vs SEBI* and in the case of *Sterlite Industries (India) Ltd. V. SEBI*. She also drew attention to the case of *Ram Sharan Yadav v. Thakur Muneshwar Nath Singh* of the Apex Court.
36. It was further submitted that the present interim order is in gross violation of the basic principles of '*audi alteram partem*' and in this regard drew attention to the judicial pronouncements in the case of *Painter v. Liverpool Oil Gas Light Co.*, *A.R. Antulay v. R.S. Nayak*, *State of AP vs. Nagam Chandrasekhara Lingam* and *Collector of Customs vs. Bibbuti Bhushan Bagh*.
37. The findings of investigation do not substantiate *prima facie* charges against her. Further the continuance of her trading activity in the securities market is not likely to be detrimental to the interest of the investor and that the period of prohibition already undergone by her is quite substantial and meets the ends of justice.
38. In view of her submissions, this noticee requested SEBI for the following relief:
  - (i) She may be allowed to sell the shares and securities held her portfolio and use the entire proceeds for her need based requirements as done in respect of Amresh

Modi and two others in the matter of Radford Global Limited and in respect of Mr. Shrenik Zaveri in the matter of Mishka Finance and Trading Limited.

- (ii) The allegation and charges against her be dropped, interim order be made inoperative and she may be discharged at the earliest.

(27) **Mr. Vikas Gupta** (Represented by Mr. K.C. Jacob, Advocate):

- a) He has denied that he has violated any of the provisions of Regulations 3 or 4 of the PFUTP Regulations or provisions of SEBI Act as alleged. Further he has not indulged in any fraudulent and unfair trade practices relating to the securities so as to warrant any kind of punitive directions.
- b) The *interim order* was passed in violation of the principles of natural justice as an opportunity of personal hearing was not provided before passing the order and there was no emergent situation, necessity or circumstances warranted for passing the said order in exercise of powers under section 11 and 11(B) of the SEBI Act.
- c) He is dealing in the stock market since a considerable period of time and has never defaulted in meeting payment or delivery obligations on any occasion.
- d) He was approached by representatives of Mayfair Infosolutions Pvt Ltd (Mayfair) for selling equity shares of HPC held by them at a price of ₹10/- per share. At the relevant time he was given to understand that investment in the said shares can fetch good returns in future since the company was proposing to come out with IPO in future. Based on the aforesaid he decided to buy 20,000 equity shares of HPC from Mayfair and had made payment of ₹1,00,000/-. The said purchase was made in the ordinary course *dehors* sinister intent or design and the purchase transaction is duly recorded in his financial statements and also in its Bank account and is well supported with proper bills.
- e) When he realized an increase in price of the share, he had decided to sell the shares in the secondary market through its stock broker viz. Arch Finance Ltd. and had sold the shares at the market price and the pay-out amounts received by him was utilized for his own business and financial purpose and were not transferred directly or indirectly to any of the entities as stated in the *interim order*.
- f) He was not aware of counter party purchaser / buyer and same is not possible to know in the screen based mechanism of the stock exchanges.
- g) He has no connection/nexus with *Funding Group*, *Trading Group*, *Pre-IPO Transferees*, *Preferential Allottees* or the persons who had traded in the scrip during the impugned period.
- h) Clubbing him with others (*HPC*, "*Funding Group*", "*Trading Group*", "*Pre-IPO Transferees*", "*Preferential allottee*.") has resulted in distorted conclusions against him. In this context, it was categorically submitted that the entire grouping is erroneous. Unrelated and unconnected entities have been grouped together based on mere surmises and conjectures to draw adverse inferences without any basis. Since the grouping is erroneous, the whole edifice of the *interim order* falls. Based on the alleged acts of other entities, no adverse

inference can be drawn against him and no liability can be saddled on it.

- i) With regard to observations in Para 1 of the Order, he was not aware of the other companies referred to in the paragraph or the nature of their business. In so far as HPC is concerned, HPC being in the business of cultivation, processing and distribution of Agricultural products is a matter of record.
- j) He is not aware of any preliminary inquiry in the dealings in the scrip of company and that he had started selling shares from March 24, 2014, when the shares were already trading above ₹500/-. As a result of his selling, there was no impact on the price. He had no role whatsoever to play in the trading done by various entities/ persons (as set out in the *interim order*), wherein he had sold the shares on multiple days spanning over 4 months.
- k) Merely because he had made a profit by selling the shares, the sale by him cannot be questioned on the ground that fundamentals of the company do not justify the price rise. Further he had made profit by selling the shares in the ordinary course, therefore no adverse inferences can be drawn against it.
- l) He has denied that he has been provided exit by the alleged exit providers. Further there was nothing on record to bring out any nexus between him and others (i.e. other sellers and buyers).
- m) Merely because he had bought the shares from Mayfair for consideration and in the ordinary course, the burden of Mayfair alleged activities cannot be saddled on to him. Further, the relationship between him and Mayfair was limited and restricted to that of a buyer and seller in ordinary course of business and at a market price and nothing beyond that.
- n) All his sales transactions were *bona fide* and in the ordinary course and there is nothing in its conduct, pattern of transactions, which can even remotely point towards manipulative intent. The reliance placed on the observations of Hon'ble SAT in *Ketan Parekh Vs. SEBI*, is totally misplaced in the facts of the case.
- o) He is not aware of the alleged funding done by the *Funding group* or that the funds were routed back to the entities of the *Funding Group* by the Company as alleged. Further, he is not aware that the Company had financed its own IPO as alleged or that the Company had allotted shares without receipt of consideration as alleged.
- p) None of the buyers or sellers who have traded, have traded at his behest or on his behalf. Further, he has not provided any funds to any of the traders in the market for the purpose of trading in the scrip and for the alleged pushing up the price of the scrip through manipulative trading by trading group no adverse inferences can be drawn against him.
- q) He has denied that he was part of alleged premeditated understanding, plan, device or artifice as alleged and the principle of price discovery was kept aside by him and the market lost its purpose as alleged.
- r) He is not aware as to whether the Trading Group entities had the financial capacity to buy shares at the alleged high price or not or that they were funded by several entities including

the entities of the *Funding Group* as alleged. It is further denied that, there was any premeditated arrangement between him and others (*viz preferential allottees, pre-IPO transferees, Trading Group and Funding Group* entities) as alleged. Hence, the allegation is baseless, devoid of basis and completely contrary to factual position on record.

- s) He has denied that he has misused the stock exchange system to artificially increase volume and price of the scrip for making illegal gains to and to convert ill-gotten gains into genuine one as alleged. No details of the alleged "ill gotten gains" which have been converted into "genuine gains" have been spelled out. Further, what is the alleged "ill gotten gain" that he has made, has also not been spelt out. The allegations were therefore bald and sweeping.
- t) If the law provides the facility of Long Term Capital Gain (LTCG) if the shares are sold after a period of more than 1 year, then how could he be faulted if he had sold the shares post expiry of 1 year and was eligible for LTCG. Further, it is incomprehensible as to how the gains made by him by selling the shares on the floor of the exchange, be branded as fictitious gains and how can the same be treated as an unaccounted income. Even at the cost of repetition the transaction is duly supported with all requisite documentary evidences which cannot be brushed aside on wide and bold observations. Prevalence of substance over form is vital and mere suspicion without any material has to be held as incorrect and bad in law. SEBI has neither laid out the basis on which it has alleged that he had any unaccounted income, nor has provided any supporting material/evidence for alleging the same.
- u) He has denied that there was any *modus operandi* to not pay income tax as alleged in order to avoid payment of taxes or to show the source of his income to be from legitimate sources as alleged. It is further submitted that he has been a regular and honest tax payer and the allegations are imaginative, speculative and devoid of any substance
- v) He has denied the alleged violation of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulations 3 (a), (b), (c), (d), 4 (1), 4(2) (a), (b), (c), (d), (e) and (g) of SEBI PFUTP Regulations, 2003.
- w) He has requested for the following relief:
  - (i) The charges in the *interim order* be dropped and directions issued against him be lifted and he may be permitted to deal in securities market.
  - (ii) Interim order as far as it applies to him be made inoperative.
  - (iii) Without prejudice to the aforesaid submission, it is prayed that the freeze on his demat account be removed and he may be allowed to sell its shareholding in scrips other than the impugned scrip, as the investigation is *qua* the impugned scrip only and allow him to utilise the sale proceeds, for *bona fide* needs and requirements.

**(28) Mr. Sagar Jain** (Represented by Mr. K. C. Jacob and Mr. Vinay Chauhan, Advocates):

- a) While making similar submissions as that of Mr. Vikas Jain, this noticee submitted that he was approached by representatives of All time Build Tech Pvt. Ltd. (Alltime) for selling

equity shares of HPC held by them at a price of `10/- per share. At the relevant time he was given to understand that investment in the said shares can fetch good returns in future since the company was proposing to come out with IPO in future. Based on the aforesaid he decided to buy 30,000 equity shares of HPC from Alltime and had made payment of ₹3,00,000/-. The said purchase was made in the ordinary course de hors sinister intent or design. The purchase transaction is duly recorded in its financial statements and also in its Bank account and is well supported with proper bills.

- b) When he realized an increase in price of the share, he has decided to sell the shares in the secondary market through its stock broker viz. MLB Capital Pvt. Ltd. and had sold the shares at the market price and the pay-out amounts received by him were utilized for its own business and financial purpose and were not transferred directly or indirectly to any of the entities as stated in the order.
- c) It is further submitted that he was not aware of counter party purchaser / buyer and same is not possible to know in the screen based mechanism of the stock exchanges.
- d) He has no connection/nexus with *Funding Group*, *Trading Group*, *Pre-IPO Transferees*, *Preferential Allottees* or the persons who had traded in the scrip during the impugned period.
- e) Clubbing him with others (*HPC*, "*Funding Group*", "*Trading Group*", "*Pre-IPO Transferees*", "*Preferential allottees*") has resulted in distorted conclusions against him.
- f) He is not aware of any preliminary inquiry in the dealings in the scrip of company and that he had started selling shares from July 04, 2014, when the shares were already trading above ₹564.99/-. As a result of this selling there was no impact on the price. He had no role whatsoever to play in the trading done by various entities/ persons in the scrip, wherein he had sold the shares on multiple days spanning over 3 months.
- g) All his sales transactions were bonafide and in the ordinary course and there is nothing in its conduct, pattern of transactions, which can even remotely point towards manipulative intent. The reliance placed on the observations of Hon'ble SAT in *Ketan Parekh Vs. SEBI*, was totally misplaced in the facts of the case.
- h) He too sought relief similar to that of Mr. Vikas Gupta.

(29) **Mr. Nikesh Kumar Bardia and Mr. Nitin Kumar Bardia** (Represented by Mr. J. J. Bhatt Advocate):

- a) They have not applied for any preferential allotment of shares of any of the companies mentioned in the *interim order* nor their names was present in the list of '*Funding Group*' or '*Trading Group*' entities at the relevant time.
- b) There was no emergent situation, necessity or circumstances warranted for passing the said order in exercise of powers under section 11(1), 11(4) and 11B of the SEBI Act.
- c) The acquisition of shares of Eco / HPC pre-IPO *per se* was not irregular, wrong or invalid. They were a *bona fide* acquirer of shares for consideration and without any notice of any defect or error.

- d) In case of shares of HPC, just because shares were sold in the market and profit was earned, the same was treated as flawed and faulted. The parameter i.e. "*who have made profit of ₹1 crore or more in a scrip*" for the purpose of treating them as a member of shortlisted Group is *ex-facie* improper, irrational and discriminatory. It means that those who made profit of less than ₹1 crore are considered non-delinquents and their demat accounts are not frozen and their access to capital market is not stopped.
- e) In case of acquisition of shares of Eco, as they are retained and lying in demat account and not sold, there can be no attribution of any wrongdoing.
- f) No connection or nexus or relationship was established with any of the buyers of HPC shares. They had sold HPC shares in the market in the normal course, through SEBI registered stock broker and at prevailing market prices. Further, there is not a single money transaction with any of the trading parties and the sale proceeds of shares belonged to them and no sum of money was transferred back to anyone. They have honoured settlement obligations in the market. It appeared that material considered against them has not been properly and critically analysed.
- g) They had no involvement with the company circles or promoters of Eco and HPC. They were not even an allottee of shares issued by these companies on preferential basis. Further, they did not know Guinness Corporate Advisory Ltd., the Merchant Banker.
- h) Clubbing, bunching, lumping, connecting them with '*Funding Group*', '*Trading Group*' was erroneous. No evidence has been furnished in the *interim order* for considering them as acting in concert with *Funding Group* and *Trading Group*. Further, they did not act in concert with anyone. Their dealings - acquisition, retention (of ECO and HPC shares) and sale of HPC shares were separate, independent and stand alone. Therefore, misconception of facts and alleged cause of action against them is misconceived.
- i) They were not aware of the names of counter party brokers and their ultimate clients at the relevant time and same is not possible to know in the screen based mechanism of the stock exchanges. Further they are not related to nor have any business or any other connection with any other investor in the matter of its dealings in these scrips. In the circumstances matching of orders was purely system driven, technical, unintentional and of no consequences to them.
- j) Their names are not present in the list of the entities belonging to Trading Group. It appears that even the name of All Time Buildtech Pvt Ltd is not there in the list from whom they had bought the shares. Further, their sell volume could not result into any price manipulation. It is also submitted that profit earned on the market by selling of shares of HPC was much later in point of time and investment in shares was made first.
- k) No order log or trade log in connection with their trades on market has been furnished resulting into violation of rules of natural justice.
- l) Their dealings were insignificant and miniscule and from other surrounding circumstances, it is apparent that they were not involved in any irregular activity at any

point of time.

- m) They have not violated the provisions of SEBI Act and the PFUTP Regulations as alleged.
- n) It is submitted that fears, doubts and apprehensions expressed in the *interim order* as far as they are concerned are totally misplaced. The dealings were delivery backed and there was transfer of beneficial ownership of shares in their name when acquired and transfer of beneficial ownership from them when sold in the market. They did not act in conjunction with anyone and held shares in their demat account for over one year. Further, they did not do any intra-day trading nor indulged in any speculative activity and there was no complaint / arbitration case against them in the matter of dealings at the relevant time.
- o) The guilty intent is a relevant factor and ought to be considered by an authority which is vested with discretionary power to levy penalty or not. They referred to the judgment of the Hon'ble Supreme Court in *Bharjatia Steel Industries vs. Commissioner, Sales Tax, Uttar Pradesh* [2008 11 SCC 717] and the following observations made in the Order of the Hon'ble SAT in Appeal No. 95 of 2013.  
*"We reiterate once again that when it comes to synchronized trading, it is an accepted and by now well settled position that such trading in itself would not tantamount to any wrongdoing. It is objectionable only if it is illegitimate and is the outcome of a mischievous meeting of minds among certain parties which may with or without an element of mens rea as such."*
- p) Their trading in shares of HPC and Eco were not fraudulent, unfair and manipulative transactions. Further, they have not done anything against the interests of investors and the safety and integrity of the market.
- q) There is complete mis-appreciation of factual aspects and the show cause notice is illogical, irrational and misdirected against them. It seems that irrelevant material, points and issues have been considered, while roping them in the episode covered in the *interim order*, which was unwarranted and unjustified.
- r) The *interim order* grossly failed to establish the connection of any sort whatsoever between them and any other party of the *Funding Group* or any other Group, if any. If the sell orders in HPC scrip were pre-decided between them and any other party as alleged then there has to be prior meeting of minds, prior collaboration and the minds ought to have been on same wave length which is not the case here.
- s) If they knew the future price or had some connection with company circles, directors, merchant-bankers, then they would have sold shares of Eco also and not retained the same with them.
- t) The above noticees requested that they may be discharged at the earliest.

**(30) Mr. Madhu Saraf and Mr. Ramesh Chandra Saraf** (Represented by Mr. Prakash Shah, Advocate):

- i. They have denied that there was an understanding, arrangement between them and the company HPC, its promoters, Directors or its *preferential allottees*. They have also denied

having any relationship with the alleged *Funding Group or Trading Group or Pre IPO transferees*.

- ii. They have denied that the investment in the scrip of HPC by them was on the basis of a premeditated understanding, plan device or artifice. Further, it is also denied that they were part of the alleged connected entities who were found to be influencing the price of scrips through positive LTP Contribution, their transactions were merely delivery based in the scrip.
- iii. They have made a profit out of investments made in hundreds of scrips and it was not possible for retail investors like them to deeply screen each and every scrip as they handle a very large portfolio. They also submitted that this was not the first time that the price of a scrip has increased like this and provided details (as annexure to reply) to show the scrips that have increased manifold in the last 2 years.
- iv. SEBI should have summoned them if any wrong doing was observed on their part. By directly passing the *interim order* without giving a chance to present their case has not only harmed the business but also has harmed their dignity causing mental agony to them. Also passing the order without providing a chance for hearing has deprived them of rights which is not justified.
- v. They are regular Income Tax assesseees and have filed Tax Returns and obligations were always complied with as required by the laws, bye-laws and regulations of Exchanges, SEBI and also adhered to the norms of the Income tax Department.
- vi. The findings of SEBI are purely based on assumptions and no material facts have been found to prove them wrong. SEBI has indicated premeditated arrangements based on trading behaviour but all clients may not be considered guilty on findings based on trading patterns.
- vii. It is submitted that despite repeated requests and prayers by them, there has been no response from SEBI as to what is the exact nature of evidence and documents referred to and relied upon by SEBI in the present matter against them.
- viii. It is submitted that the order seeks to create a tenuous and non-existent link between them on one hand and the *preferential allottees*, HPC, directors/promoters of HPC and other allegedly connected entities on the other side.
- ix. At the time of inspection of documents carried out on February 08, 2016, they had specifically requested SEBI to provide with the details and documents in possession with SEBI to prove the sort or nature of 'prior understanding; 'arrangement' or 'connection' existed between them and the Company. However, they were provided only with Trade Log and Order Log of HPC for relevant period and the Prospectus of HPC.
- x. The *interim order* pre-supposes and presumes a nexus between them and preferential allottees. Their investment decision in the shares of HPC was made by them independently based on the recommendation given to them by Mr. Ashish Goyal. Thus,

merely and solely because they purchased shares of an unlisted company in off-market, it cannot be presumed or pre-supposed that they have a nexus, link or relationship with the said entity.

- xi. Off market transaction are not illegal per se. In this regard, the noticees drew attention to the Order of Hon'ble SAT in the case of Rajendra G Parikh vs. SEBI (Appeal No 44 of 2009), wherein it was observed as under:  
*“Apart from the bald allegation made in the show cause notice, there is not an iota of material on record to show that these persons formed a cartel or that the promoters of the company were in a way linked with the persons to whom the shares had been transferred in off market transactions. He has not referred to any material which could substantiate these findings nor could it be pointed out to us the learned counsel appearing for the Board. Merely because promoters transferred the shares to them in off market transaction is no-ground to hold that there was a link between the two. Off market transactions are not per se illegal. (emphasis supplied)*
- xii. They did not have any connection with the promoters/directors of HPC, alleged *Funding Group*, alleged *Trading Group* or with Merchant Banker of HPC.
- xiii. SEBI has made sweeping, bald and common observations against them, amongst others merely because they had purchased shares of HPC in off-market.
- xiv. They regularly monitor its investment and when value of its investment in the company appeared to be at high, they realized that it was appropriate time to sell and as any other prudent persons they sold the shares on the market.
- xv. They had no idea about buyer of their shares of HPC since all the transactions were executed through the normal screen based trading system of Stock Exchange.
- xvi. They had sold merely 20,000 shares each of HPC which is a minuscule percentage of the total market volume in the scrip at the relevant point of time and their sale in HPC was at the then prevailing market price so as to have any impact on the volume in market.
- xvii. The price of scrip rose to as high as ₹757.50/- in December 2014. Thus, if they were the part of any alleged '*modus operandi*' or '*manipulation*', they would have waited for the price of scrip to get higher and sold the shares at the highest possible price which clearly is not the case.
- xviii. The said Order is passed in defiance of principles of natural justice as an opportunity of personal hearing was not provided before passing the order and there was no emergent situation, necessity or rationalization for passing the said order in exercise of powers under section 11(1), 11(4) and 11(B) of the SEBI Act.
- xix. SEBI has passed a common Order against 239 entities including them, and hence they are unable to reconcile and understand what adverse findings are alleged against them. Also, they have bundled with others alleged whereas their dealing in HPC is completely dissimilar, distinct and separate from other entities mentioned in Order.

- xx. An open ended restraint order against them is breach of fundamental right of carrying business under the Constitution of India.
- xxi. They have denied the alleged violation of the provisions of SEBI Act, 1992 and PFUTP Regulations, 2003.
- xxii. As a consequence of aforesaid Order, their Demat Accounts have been frozen and SEBI has acted beyond its scope and purview and power assigned to it and transgressed the power delegated to it by the Parliament of India.
- xxiii. They have submitted that, it is wholly untenable for any authority to arrive at a finding of fraud solely on the basis that shares of HPC were allotted on a preferential basis to them. Further, the strict proof and compelling evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in *Parsoli Corporation vs SEBI* and the Hon'ble Supreme Court's Order in the case of *Ram Sharan Yadav v. Thakur Muneshwar Nath Singh*.
- xxiv. The present Order is in gross violation of the basic principles of '*audi alteram partem*' and referred to the judicial pronouncement in the case of *Painter v. Liverpool Oil Gas Light Co.*
- xxv. The findings of investigation does not substantiate *prima facie* charges against them. Further the continuance of their trading activity in the securities market is not likely to be detrimental to the interest of the investor and that the period of prohibition already undergone by them is quite substantial and meets the ends of justice.
- xxvi. At the relevant time, they genuinely had no idea of any alleged '*manipulative modus operandi*' by any entity in HPC, as alleged or otherwise.
- xxvii. SEBI has erroneously linked them to certain entities with which they have no connection of whatsoever nature. It is reiterate that they do not have any relationship with any entity mentioned in the Order neither do they have any common 'Know Your Client ("KYC") details, bank statements, off-market transactions' with the entities mentioned the Order.
- xxviii. They have an unblemished track record as an investor and as a stock broker in market
- xxix. Ramesh Chandra Saraf contended that the 3 entities who were the buyers of his shares were not made a part of present proceedings and neither have they been debarred from accessing the securities market, thus the same trade executed by them considered normal and genuine on one side and his trades were considered as fraudulent on the other side.
- xxx. Further, they have requested SEBI to provide them with copies of details and data referred to and relied upon.
- xxxi. They prayed for the following:
  - (a) They may be allowed to sell the shares and securities held in its portfolio and use the entire proceeds for its need based requirements as allowed to Amresh Modi

and 2 others in the matter of Radford Global limited and in respect of Mr. Shrenik Zaveri in the matter of Mishka Finance and Trading Limited.

(b) Interim order as far as applicable to them be made inoperative and charges and allegations against them be dropped.

**(31) Mr. Shaleen Kumar Singh and Ms. Shalini Gupta:** (Represented by Mr. Prakash Shah, Advocate)

- a) They have not claimed any exemption on the profit on sale of HPC shares and have also paid Income tax at the highest slab of 30% on profit/gain considering their dealing in HPC shares as business income, despite which bald and sweeping allegation of '*...generating fictitious LTCG so as to convert unaccounted income of preferential allottees...*' and '*...one with no payment of taxes as LTCG is tax exempt under section 10(38) of Income Tax Act, 1961...*' (Ref Para 44 of interim order) has been made against them.
- b) Under the garb of 'preventive and remedial measures' and on gross assumptions, presumptions, surmises and conjectures they have been dragged into present penal direction without proper understanding the peculiar facts and circumstances of the case.
- c) It submitted that they had paid all applicable statutory levies and income tax i.e. 33.99 % (30% Tax + 10 % Surcharge + 3% Cess) without claiming any deductions/set off of losses; on their earnings in HPC. A copy of Audit Report from statutory auditor, Income Tax Return for FY 2014 - 15 and Tax Paid Challan is provided with the submissions. Thus, the question of 'avoidance of tax' or 'non-payment of long term gain tax' as mentioned in the Order is not applicable in their case. In view thereof, it is further stated that their case is different, distinct and separate from the entities against which the preliminary findings might be applicable as mentioned in the Order, hence, they have been wrongly clubbed with other preferential Allottees and erroneously dragged into the present proceedings.
- d) They have no relationship or connections with any entities allegedly connected to HPC. Further, there is no flow of funds from/to entities named in the Order except for the payment to HPC as application money for subscribing to preferential shares of HPC.
- e) SEBI has not provided them with any cogent evidence w.r.t. unsubstantiated and sweeping allegation leveled against them.
- f) Further, they have requested SEBI to provide them with copies of details and data referred to and relied upon.
- g) They have no connection or nexus with the Promoters/ Directors of the HPC, *Funding Group, Trading Group*, or Merchant Banker of HPC. Further, it has been alleged in Order that certain entities who had invested in the HPC got back the monies invested by them through loans or payments by the Company. In this regard, they have stated that they have not received back a single rupee from the amount invested by them from HPC or any of its allegedly connected entity.

- h) They have submitted that baseless and unwarranted inference were drawn in the *interim order*. Further, generic common allegations were recorded and not a single instance or observation on specific role of them is delineated in the entire Order, which is bad in law.
- i) While buying they had no idea whether they will make profit or loss in the said business activity. They bought the said shares without any sinister motive. It was also submitted that they have purchased shares with legitimate source of income.
- j) They regularly monitored their investment and when value of their investment in the company appeared to be at high, they realized that it was appropriate time to sell and as any other prudent person they sold the shares on the market.
- k) They had no idea about buyer of its shares of HPC since all the transactions were executed through the normal screen based trading system of Stock Exchange.
- l) The sale in HPC shares was at the prevailing market price so as to have any impact on the price and volume of the scrip, therefore the allegation of any abuse of price manipulation is irrelevant, immaterial and misdirected.
- m) All their sale transactions in the shares of HPC were delivery based & had met with all their obligations towards the market and all their sale transactions were as per the rules and regulation as laid out by the regulator from time to time.
- n) The price of scrip rose to as high as ₹757.50/- in December 2014. Thus, if they were the part of any alleged 'modus operandi' or 'manipulation', they would have waited for the price of scrip to get higher and sold the shares at the highest possible price which clearly is not the case.
- o) There was no such emergent situation, necessity or rationalization for passing the said order in exercise of powers under section 11(1), 11(4) and 11B of the SEBI Act.
- p) SEBI has passed a Common Order against 239 entities, including them, and in this regard they are unable to reconcile and understand what adverse findings are alleged against them. Also, they were bundled with others alleged with whom they have no connection of whatsoever nature and their dealing in HPC is completely dissimilar, distinct and separate from other entities mentioned in Order.
- q) They have denied the alleged violation of the provisions of Section 12A (a) (b) (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d), 4 (1), 4(2) (a), (b), (c), (d), (e) and (g) of SEBI PFUTP Regulations, 2003.
- r) Section 11(4)(e) of SEBI Act mandates an approval from Judicial Magistrate for attachment of accounts, which is not obtained before attaching their demat accounts.
- s) It is wholly untenable for any authority to arrive at a finding of fraud solely on the basis that shares of HPC were allotted on a preferential basis to them. Further, the strict proof and cogent evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in *Parsoli Corporation vs SEBI* and Hon'ble Supreme Court's judgment in the case of *Ram Sharan Yadav v. Thakur Muneshwar Nath Singh*.

- t) The present Order is issued to them without any prior communication, notice, letter or any correspondence seeking explanation or clarification and hence the said order is in gross violation of the basic principles of '*audi alteram partem*' and cited the judicial pronouncements in the case of *Painter v. Liverpool Oil Gas Light Co* and *A.R. Antulay v. R.S. Nayak*.
- u) The findings of investigation do not substantiate *prima facie* charges against them. Further the continuance of their trading activity in the securities market is not likely to be detrimental to the interest of the investor and that the period of prohibition already undergone by them is quite substantial and meets the ends of justice.
- v) They have prayed for the following:
  - (a) They may be allowed to sell the shares and securities held in their portfolio and use the entire proceeds for their need based requirements as allowed in respect of Amresh Modi and 2 others in the matter of Radford Global Limited and in respect of Mr. Shrenik Zaveri in the matter of Mishka Finance and Trading Limited.
  - (b) Interim order as far as applicable to them be made inoperative.
  - (c) The allegation and charges against them be dropped and they may be discharged at the earliest.

**(32) Mr. Ankur Jain, Mr. Abhishek Jain and Mr. Suresh Chand Jain** (Represented by Mr. Prakash Shah, Advocate):

- a) They have not claimed any exemption on the profit on sale of HPC shares and have paid Income Tax at the highest slab of 30% on profit/gain considering their dealing in HPC shares as business income, despite which bald and sweeping allegation of '*...generating fictitious LTCG so as to convert unaccounted income of preferential allottees...*' and '*...one with no payment of taxes as LTCG is tax exempt under section 10(38) of Income Tax Act, 1961...*' (Ref Para 44 of Order) has been made against them.
- b) Under the garb of '*preventive and remedial measures*' and on gross assumptions, presumptions, surmises and conjectures they have been dragged into present penal direction without proper understanding the peculiar facts and circumstances of the case.
- c) They had paid all applicable statutory levies and income tax i.e. 33.99 % (30% Tax + 10 % Surcharge + 3% Cess) without claiming any deductions/set off of losses; on their earnings in HPC. A copy of Audit Report from statutory auditor, Income Tax Return for FY 2014 - 15 and Tax Paid Challan is provided with the submissions. Thus, the question of 'avoidance of tax' or 'non-payment of long term gain tax' as mentioned in the *interim order* is not applicable in their case. In view thereof, it is further stated that their case is different, distinct and separate from the entities against which the preliminary findings might be applicable as mentioned in the Order, hence, they have been wrongly clubbed with other preferential Allottees and erroneously dragged into the present proceedings.
- d) SEBI has made sweeping, bald and common observations against them, amongst others

in the order and there has been no attempt to examine their particular and individual role in the matter. Further, the order is based on surmises, conjectures, probabilities and hypothesis, which is clear from the language and construction of the order, parts of which are *inter alia* extracted as ready references:

*Thus it is safely inferred that in the case of preferential allotment by the aforesaid companies, the companies and their promoters / directors had prior understanding, arrangement and purpose’.*

*I am of the opinion that the transactions in the said strips were with a premeditated understanding, plan, device or artifice’.*

*‘Such trading behaviour belies economic rationale and indicates existence of premeditated arrangement among preferential allottees, pre IPO transferees, Trading Group and Funding Group entities’.*

- e) They have no relationship or connections with any entities allegedly connected to HPC. Further, there is no flow of funds from/to entities named in the Order except for the payment to HPC as application money for subscribing to preferential shares of HPC.
- f) SEBI has not provided them with any cogent evidence with respect to unsubstantiated and sweeping allegations levelled against them.
- g) Further, they have requested SEBI to provide them with copies of details and data referred to and relied upon.
- h) They have no connection or nexus with the Promoters/ Directors of the HPC, Funding Group, Trading Group, or Merchant Banker of HPC. Further, it has been alleged in the interim order that certain entities who had invested in the HPC got back the monies invested by them through loans or payments by the Company. In this regard, it is stated that they have not received back a single rupee from the amount invested by them from HPC or any of its allegedly connected entity.
- i) They have submitted that the baseless and unwarranted inference has been drawn in the interim order. Further, the generic common allegations were recorded, and not a single instance or observation on specific role of them is delineated in the entire Order; thus, such an approach is illegal and bad in law.
- j) While buying they had no idea whether they will make profit or loss in the said business activity. They bought the said shares with advice of close business associate and without any sinister motive. It is also submitted that they have purchased shares with legitimate source of income.
- k) They regularly monitor their investment and when value of their investment in the company appeared to be at high, they realized that it was appropriate time to sell and as any other prudent person they sold the shares on the market.
- l) They had no idea about buyer of its shares of HPC since all the transactions were executed through the normal screen based trading system of Stock Exchange.
- m) The sale in HPC shares was at the prevailing market price so as to have any impact on the price and volume of the scrip, therefore the allegation of any abuse of price manipulation is irrelevant, immaterial and misdirected.

- n) All their sale transactions in the shares of HPC were delivery based & had met with all their obligations towards the market and all their sale transactions were as per the rules and regulation as laid out by the regulator from time to time.
- o) The price of scrip rose to as high as ₹757.50/- in December 2014. Thus, if they were the part of any alleged 'modus operandi' or 'manipulation', they would have waited for the price of scrip to get higher and sold the shares at the highest possible price which clearly is not the case.
- p) There was no such emergent situation, necessity or rationalization for passing the said order in exercise of powers under section 11(1), 11(4) and 11B of the SEBI Act.
- q) SEBI has passed a Common Order against 239 entities, including them, and in this regard they are unable to reconcile and understand what adverse findings are alleged against them. Also, they were bundled with others alleged with whom they have no connection of whatsoever nature and their dealing in HPC is completely dissimilar, distinct and separate from other entities mentioned in Order.
- r) They have denied the alleged violation of the provisions of section 12A (a) (b) (c) of SEBI Act, 1992 and Regulation 3 (a), (b), (c), (d), regulations 4 (1), 4(2) (a), (b), (c), (d), (e) and (g) of PFUTP Regulations, 2003.
- s) Section 11(4)(e) of SEBI Act mandates an approval from Judicial Magistrate for attachment of accounts, which is not obtained before attaching their demat accounts.
- t) It is wholly untenable for any authority to arrive at a finding of fraud solely on the basis that shares of HPC were allotted on a preferential basis to them. Further, the strict proof and cogent evidence is required for a serious charge of fraud as per the decision of Hon'ble SAT in Parsoli Corporation vs SEBI and Hon'ble Supreme Court in the case of *Ram Sharan Yadav v. Thakur Muneshwar Nath Singh*.
- u) The present Order is issued to them without any prior communication, notice, letter or any correspondence seeking explanation or clarification and hence the said order is in gross violation of the basic principles of '*audi alteram partem*'.
- v) The findings of investigation does not substantiate *prima facie* charges against them. Further the continuance of their trading activity in the securities market is not likely to be detrimental to the interest of the investor and that the period of prohibition already undergone by them is quite substantial and meets the ends of justice.
- w) They have prayed for the following:
- (i) They may be allowed to trade and invest in the shares and securities held in their portfolio and use the entire proceeds for their need based requirements, as allowed in respect of Amresh Modi and 2 others in the matter of Radford Global Limited and in respect of Mr. Shrenik Zaveri in the matter of Mishka Finance and Trading Limited.
  - (ii) Interim order as far as applicable to them be made inoperative.

- (iii) The allegation and charges against them be dropped and it may be discharged at the earliest.

**(33) Ms. Bimla Vij** (Represented by Ms. Rinku Valanju, Advocate):

- a) She has been an investor through both primary and secondary markets. She has been investing some part of her savings in equity shares of certain companies depending upon the advice from friends and relatives.
- b) She has submitted that she is not holding any shares of HPC now and hence there is no question of trading in the said scrip. Further, the value of her portfolio is huge compared to the alleged wrong doing relating to my dealing in the shares of HPC.
- c) The *interim order* has deprived her from the right to trade in the market which has caused undue hardship to her. Her case is on a different footing, her trading is separate stand alone and clubbing it with others is totally unjustified.
- d) She had applied for preferential allotment and admittedly her name is not appearing in the *Funding Group or Trading Group*.
- e) SEBI has not taken any regulatory penal action against BSE who allowed price rise which is now sought to be treated as superfluous. Even the Merchant Banker and IPO allottees who have made gains are not restrained from any kind of stock market trading related activities. Therefore SEBI's approach towards *preferential allottees* is biased and discriminatory.
- f) It is also required to state clearly as to how in the absence of the *interim order*, the integrity of the securities market would not be maintained. No *prima facie* case has also been made out to warrant the issuance of a direction of serious consequences against her which is out and out penal in nature.
- g) She was advised by her relative regarding investing in the shares of HPC. She had applied for 10,000 equity shares of ₹10/- each paid-up in the issue of shares on a preferential basis of HPC by paying ₹ 1 Lakh to the company from her own funds. Her subscription was not funded by any funding group entity or otherwise.
- h) She was observing spurt in price in the shares of the company on BSE. She was not part of any group and did not have contemporaneous knowledge of wrongdoing, if any, at the relevant time and none was pointed out either by BSE (SME platform) or by anyone.
- i) She is a small shareholder (holding 0.13%) and was neither in a position to influence nor have entered into any manipulative practice at all.
- j) Her dealings were insignificant and miniscule and from other surrounding circumstances, it is apparent that she was not involved in any irregular activity at any point of time.
- k) She has not committed any act which is fraudulent in nature or which may have caused any harm to market. Her delivery based sales were genuine and real.
- l) She has not met or interacted with any of the Promoters, Directors, Managers or Groups as alleged of the Company and has no acquaintance and / or familiarisation with them and

cannot be said to be acting with a “prior understanding, arrangement and purpose”. She does not know Guinness Corporate Advisory Ltd., Merchant Banker.

- m) Treating her as a member of shortlisted Group was *ex-facie* improper, irrational and discriminatory. It meant that those who made profit of less than ₹ 1 crore are considered non-delinquents and their demat accounts, it seems, not frozen and their access to capital market is not stopped.
- n) She was not aware about the counter parties to her trades at the relevant time. She is not related to nor has any business or any other connection with any other investor in the matter of her dealings in HPC shares in the circumstances matching of orders was purely system driven, technical and unintentional.
- o) She denied violating the provisions of the SEBI Act and PFUTP Regulations as alleged in the *interim order*.
- p) She had sold her shares in an independent manner with no premeditated understanding, plan, device or artifice. There is no dumping of share by her at all as has been pointed out in the order. She has sold shares in tranches over a period of about 10 months.
- q) She has submitted that the order has grossly failed to establish the connection of any sort whatsoever between her and any other party of the Funding Group or any other Group.
- r) The interim order passed by SEBI is very harsh and unjust as she was not given any opportunity to make any statement and no clarification was sought from her prior to passing of the order. Apart from being a *preferential allottee*, she is not having any commercial transactions with company or its directors.
- s) She has requested to de-freeze her trading and demat accounts for the limited purpose of selling of shares as her role and participation are without any cogent material / cogent evidence.
- t) She also requested that pending investigation in the matter, following interim/alternative reliefs may be granted to her:
  - a. Permission to liquidate stocks/securities held in her portfolio and use of sale proceeds thereof;
  - b. Permission to avail rights/bonus, etc. accruing on her shares;
  - c. Permission to subscribe, purchase including by way of Systematic Investment Plan (SIP) and sell /redeem mutual funds units.

(34) **Moran Plantation Pvt. Ltd. & Parasramka Holdings Pvt. Ltd** (Represented by Mr. Rakesh Khadelwal):

- a) They have submitted that investing in Shares and Mutual Funds is part of their business and they regularly trade in listed and non-listed securities.
- b) In December 2012, they applied and were allotted shares of HPC under preferential allotment for which the payments were made through proper banking channels.

- c) The shares were not sold by them in a single lot but in pieces over a period of time.
- d) It is totally inappropriate to say that the EPS and PAT of HPC were too low to warrant any investment by an investor. Though in open market trade, EPS and PAT are important factor in taking prudent buying / selling decisions but they are not the sole factors as market sentiments, conviction of the investor, trend in market price movement, etc., play an equally important role. If this was not so, for example, the prices of companies like Unitech would not have crashed to ₹2 and then rose to ₹32 in the same trading session, i.e., a rise of 16 times in a single session. Thus, it is just not appropriate to doubt their decision in investing in the shares of a particular company.
- e) The price of the shares of HPC touched the peak of ₹757.50 per share, whereas, we sold our shares at about ₹ 530 per share which is about ₹ 220 less than the peak prices. They took the decision to exit only when the prices were falling and submitted that this was a prudent decision by the companies with *bona fide* intention. Thus, it was totally inappropriate to blame them for selling the shares at a price which resulted in good profits for them.
- f) They have submitted that they made the investments out of own resources and were in no way connected, whether directly or indirectly with the *Funding Group*.
- g) They have not participated or applied for any shares in the IPO and thus were not a party in transfer of IPO proceeds or *Funding Group*, either directly, or through layering.
- h) They were never a party in contributing to positive last traded price (LTP) of the share.
- i) They have not either directly or indirectly use or employ, in connection with the issue, purchase or sale of any listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions section 12A of the SEBI Act or rules or regulations made there under.
- j) They have not contravened any of the regulations of PFTUPT including regulations 3 and 4.
- k) They had invested only in the shares of HPC and not in any other company as enumerated in your order, namely, Eco, Esteem, CNE and none of their Directors / Promoters are in any way related to the aforesaid companies or their Directors / Promoters.
- l) They have requested to revoke the *ex-parte interim order* passed against them and allow access to the securities market and to buy, sell or deal in securities, either directly or indirectly, in any manner.

**(35) Mr. Vijendra Goel** (Represented by Mr. Atal Bihari Agrawal, CS)

- a) He has submitted that he was investing in the securities regularly and contended that he is not connected with the promoters and promoter group.
- b) He requested SEBI to remove the restrictions/directions imposed on him.

**(36) Ms. Urmil Rathi, Ms. Anchal Rathi and Ms. Shweta Rathi** (Represented by Ms.

Shailashri Bhaskar, Practicing Company Secretary):

1. Mr. Gopal Rathi is their family member, who he keeps track of various investment opportunities available and they invested in the scrip of HPC on the basis of his advice only.
2. As informed by Mr. Gopal Rathi, they were advised to invest in this scrip by Mr. Ramesh Saraf, working at Narayan Securities Ltd., a SEBI registered stock broker.
3. They have submitted that they are not connected/related to HPC, its promoter and/or directors, *Trading Group, Funding Group, Pre IPO Transferees, allottees of preferential issue of HPC.*
4. They are having an independent source of income and they are not dependent on anybody financially. They have applied in the preferential issue of HPC through their own funds.
5. The *interim order* has severely tarnished and smeared their reputation. They are regular investors in securities market and have never misused stock exchange mechanism.
6. The *interim order* was passed without providing any opportunity of personal hearing. These directions have violated the principles of natural justice.
7. The investment done by them was a vigilant decision made after doing the background check and evaluation of HPC's accomplishments. The company had good financial standing in the year in which preferential issue came out and the Book value and EPS were also reasonable which influenced them to make investment in the company.
8. HPC had enlightened them about its imminent plans of coming out with Initial Public Offering and this was also one of the motivating factors to subscribe in the preferential issue. There was no *mala fide* intention behind the investment. Their investment in HPC was very small portion of their overall investment portfolio.
9. They have submitted that they sold their shares on the anonymous trading platform of the stock exchanges wherein the identity of the counter party is not disclosed. They were absolutely heedless about such actions happening in the market for the scrip of HPC and have no correlations with the increased traded volume and price of the scrip. They further deny that they were provided with hugely profitable exit by the *Trading group* entities.
10. They have submitted that the entities who have made a profit of ₹ 1 crore or more were shortlisted in the order, this criteria has been made without any basis and the figure of ₹ 1 crore is an arbitrary and irrational figure.
11. SEBI has tried to reach a conclusion just on the basis of conjectures and surmises that they are connected to HPC and their directors/promoters and had got some prior understanding, arrangement and purpose.
12. They have not generated any illegal gains and that they are not part of any dubious plan device or artifice as alleged. Further it has also been alleged that they have been part of the arrangement for funding the *Trading group* in purchasing the shares and they strongly deny such allegation

13. They have denied that they have made any ill-gotten gains and converted them into genuine one, since they are filing Income Tax returns regularly, have paid taxes as per law and have not concealed any income. There is no money laundering or tax evasion on my part.
14. They have denied that that they have violated the provisions of PFUTP Regulations and SEBI Act as alleged in the *interim order*.
15. They have requested that:
  - An order be passed lifting the directions issued under *ex parte ad interim order* on an urgent basis so that their reputation is restored; and
  - Allow them to buy, sell or deal in securities without any restriction and the freeze on their demat account may be lifted.

(37) **Ms. Jayanaben Thakkar** (Mr. Anish G Kharidia, CS, Mr. Atul Chokshi, Mr. Deval Sheth, CA, Mr. Vinay Chauhan, Advocate and Mr. K C Jacob Advocate):

- a) The allegations made in the order shall be deemed to be admitted merely on account of non-traverse and not violated any of the provisions of regulations 3 or 4 of the PFUTP Regulations or provisions of SEBI Act.
- b) The said *interim order* was vitiated by gross violation of principles of natural justice, in as much as no opportunity was provided to them to explain their version and the circumstances as stated in the said *Interim order* do not justify dispensation of pre-decisional hearing.
- c) The power to issue directions under section 11 and section 11(B) of SEBI Act has to be exercised judiciously and it is all the more necessary in a case having adverse civil consequences as well as reputational adversity. Further, it was well settled that a discretionary power was not to be invoked arbitrarily devoid of justification, as has been done in the matter under reference.
- d) The said *Ex parte order* was described as an "*ex parte ad interim order*". An *ex parte ad interim order* is justified if the circumstances justify the same. In the instant case, there was no such emergent situation or circumstance warranting such *an ex parte ad interim order*.
- e) The directions under section 11 and 11(B) are issued for safeguarding the markets and are not for penalizing the persons and denying their legal rights, on the basis of assumptions and presumptions. The direction issued against them, at this juncture is neither preventive nor remedial not curative, but out and out penal.
- f) She invested in the shares of HPC through preferential allotment out of her own funds. The same has shown in her balance sheet.
- g) She does not have link/connection/nexus with HPC/ funding group/ trading group/ pre IPO transferees/ preferential allottees.

- h) The sale proceeds received from time to time were deployed for legitimate business purpose only and not for the purpose towards payment to any of the alleged entities in the *interim order*.
- i) She is not aware of price rise and not involved in listing of the shares on the stock exchange or in the trading of the shares during the alleged price rise period.
- j) There are no records establishing relation/ connection/ nexus with connected entities, funding group entities, trading group.
- k) The observations made in the order that trading group entities provided a huge profitable exit, nothing are there on record to bring out any nexus between her and others. Hence, the observations are bald, sweeping in the air.
- l) She is not aware of the counterparties and not possible to know the counterparties on the screen based mechanism of stock exchange.
- m) No adverse inferences can be drawn against her as she is not known the alleged trading group entities are trading at the same time. Her sale cannot be viewed suspiciously.
- n) Profits made by selling shares in the ordinary course of business only and hence no adverse inferences can be drawn against her.
- o) She is not aware of financing funds by company for its own IPO to the funding group.
- p) The allegation is baseless, devoid of basis and completely contrary to factual position on record with regard to premeditated arrangement between him and others (viz preferential allottees, Pre-IPO transferees, Trading group and Funding group entities),
- q) The earnings made by sale of shares after one year are bonafide for which the law provides the facility of Long Term Capital Gain (LTCG) and the allegation that misusing stock exchange system to artificially increasing volume and price and thereby making illegal gains by converting ill-gotten gains into genuine gains are being coined as tainted one merely on conjectures, surmises and filmsy grounds which are completely baseless and devoid of factual legal.
- r) She denies to employ any scheme, plan, device and artifice and in the case of allegations money laundering or tax evasion. He has not contravened the provisions of regulations 3(a), (b), (c) and (d) and 4(1), 4(2)(a), (b), (c), (d), (e) and (g) and section 12A (a), (b) and (c) of SEBI Act.
- s) She does not have relation with directors of HPC and nothing has been brought into the record with regard to connection with the company/ directors.
- t) She has submitted that there are inconsistencies in the trade data furnished by SEBI and with her contract notes. She has also pointed that the traded volume of shares are same as per BSE website and the data furnished by SEBI and raised concerns on the authenticity and accuracy of the *interim order*
- u) She was erroneously lumped with others and deprived of accessing the securities market and dealing in securities market. His continuation in the market would not in any manner shake the confidence of investors in the market.

- v) The directions passed unjustified, unwarranted and untenable. The loss of reputation as a result of this order would severely impeded the business in future. The prohibition directly or indirectly from buying, selling and dealing in securities is draconian direction which throttles my business and crippled the operations.
- w) She requested that the prohibitive directions passed against her be withdrawn and she may be allowed to deal in securities.

**(38) Mr. Anuj Maheshwari** (Represented by Ms. Rinku Valanju, Advocate):

- (i) He had applied for preferential allotment and admittedly his name was not appearing in the list of *Funding Group or Trading Group* entities.
- (ii) He does not hold shares of HPC now and hence there was no question of trading in the said scrip. Further, the value of his portfolio is huge compared to the alleged wrong doing relating to his dealing in the shares of HPC.
- (iii) The order has deprived him of the right to trade in the market which has caused undue hardship.
- (iv) His case is on a different footing as his trading is separate and stand alone and therefore clubbing him with others was totally unjustified.
- (v) SEBI has not taken any regulatory penal action against BSE who allowed price rise which is now sought to be treated as superfluous. Even the Merchant Banker and *IPO allottees* who have made gains are not restrained from any kind of stock market trading related activities. Therefore SEBI's approach towards *preferential allottees* is biased and discriminatory.
- (vi) SEBI has to justify the need for invocation of the powers under sections 11/11B of the SEBI Act clearly after over 2 years from the alleged cause of action and completed/settled transactions in scrip of HPC on the SME segment of BSE.
- (vii) It was also required to state clearly as to how in the absence of the *interim order*, the integrity of the securities market would not be maintained. No *prima facie* case was made out to warrant the issuance of a direction of serious consequences against him which is out and out penal in nature.
- (viii) He has submitted that his wife is a working woman and has her own source of income. She is the first holder in the demat account and is a true beneficiary of the account. Further she has made all her investments from her own funds. Therefore, he has requested to defreeze the demat account no. 10823445 with DP-Kotak Mahindra Bank Limited and trading account with broker Kotak Securities Limited (Client code: OIFQ0) with immediate effect.
- (ix) He has been investing some part of his savings in equity. He has been an investor in both primary and secondary market and acquired shares of certain companies depending upon research, conviction, risk appetite, financial capacity etc. One of his family friends gave the idea of investing in the shares of HPC. The amount of ₹1 lakh

was paid from his own funds from his savings bank account and was not funded by any *funding group* entity or otherwise

- (x) He was observing spurt in price in the shares of the company on BSE bourse. He was not part of any group and did not have contemporaneous knowledge of wrongdoing, if any, at the relevant time and none was pointed out either by BSE (SME platform) or by anyone.
- (xi) This holding was only 0.13% of the total issued share capital. This obviously was an insignificant shareholding in the company and he was in no position to influence any share price movement of the company.
- (xii) His dealings were insignificant and miniscule and from other surrounding circumstances, it is apparent that he was not involved in any irregular activity at any point of time.
- (xiii) He has not sold his shares immediately on completion of the lock in period and had waited for quite sometime and then based on huge price appreciation, sold the shares over a period of about 10 months. He has not entered into any off-market transactions with respect to the shares of HPC. He has not committed any act which is fraudulent in nature or which may have caused any harm to market.
- (xiv) The acquisition of shares *per se* was not irregular, wrong or invalid. He was a *bona fide* acquirer of shares for consideration and without any notice of any defect or error. The dealing was at arm's length and in good faith.
- (xv) Besides, he never knew, met or interacted with the *Trading group, Funding group, 'Promoter, employee of the Investee Company'* and has sold his entire shares only with the objective of maximizing his returns.
- (xvi) Just because shares were sold in the market and profit earned, the same was treated as flawed and faulted. The parameter i.e. "*who have made profit of ₹1 crore or more in a scrip*" for the purpose of treating him as a member of shortlisted Group (Table I4) is *ex-facie* improper, irrational and discriminatory. It meant that those who made profit of less than ₹1 crore are considered non-delinquents and their demat accounts were not frozen and their access to capital market was not stopped.
- (xvii) After orders get executed, BSE does not provide details of trades with the names of counter brokers or their end clients. He therefore was not aware about the counter parties to his trades at the relevant time and requested for order log/ trade log details in this regard. He is not related to nor has any business or any other connection with any other investor in the matter of his dealings in HPC shares. In the circumstances matching of orders was purely system driven, technical, unintentional and of no consequences to him.
- (xviii) He has no 'acquaintance' or 'familiarity' with any of the Promoter / Directors or any of the functionaries of the referred Company. He has never met them nor anyone connected to them and has not spoken to them in any way at all and least of all, on the

matter of collusion with them. The 'collusion' philosophy leading to a "prior understanding, arrangement and purpose" does not apply to him, at all.

- (xix) No connection or nexus or relationship is established with any of the buyers of HPC shares. He sold HPC shares in the market in the normal course, through SEBI registered stock broker and at prevailing market prices.
- (xx) There is not a single money transaction with any of the trading parties and that sale proceeds of shares belonged to him and no sum of money was transferred back to anyone.
- (xxi) He has no involvement with the company circles or promoters of HPC (and none is pointed out in the order). He invested ₹1 lac as already stated above. Further he does not know Guinness Corporate Advisory Ltd., Merchant Banker. Hence, clubbing, him with promoters / company is erroneous. No evidence has been furnished in the order for considering him as acting in concert with anyone for that matter. His dealings — acquisition, retention and sale of HPC shares - were separate, independent and stand alone. He is not associated with anyone. There, is therefore misconception of facts and alleged cause of action against him is misconceived.
- (xxii) He is not provided with order log or trade log in connection with his trades on market has been furnished resulting into violation of rules of natural justice.
- (xxiii) He has not violated the provisions of PFUTP Regulations and SEBI Act as alleged in the *interim order*.
- (xxiv) He sold his shares, in tranches over a period of about 10 months, in an independent manner with no premeditated understanding, plan, device or artifice. There is no dumping of share by him at all as has been pointed out in the order. She has submitted that the order has grossly failed to establish the connection of any sort whatsoever between him and any other party of the Funding Group or any other Group.
- (xxv) The order passed by SEBI is very harsh and unjust as no opportunity was provided to make any statement and no clarification was sought from him prior to passing of the order. Apart from being a preferential allottee, he is not having any commercial transactions with company or its directors.
- (xxvi) He has requested to de-freeze his trading and demat accounts for the limited purpose of selling of shares.
- (xxvii) Pending investigation in the matter, he also requested SEBI to provide the following relief:
  - 1. Permission to liquidate stocks/securities held in his portfolio and use of sale proceeds thereof;
  - 2. Permission to avail rights/bonus, etc. accruing on his shares;
  - 3. Permission to subscribe, purchase including by way of Systematic Investment Plan (SIP) and sell /redeem mutual funds units;

(39) **Mr. Gaurav Chandra and Mr. Vipul Chandra** (Represented by Mr. Prakash Shah, Advocate):

- a) The classification of persons earning above ₹1 crore has no nexus with protecting the interests of the investors of the stock market and as such the classification is arbitrary and liable to be set aside.
- b) The primary allegation against the *Pre-IPO transferees* is that the entire scheme was aimed at tax evasion and converting unaccounted income into legitimate income from the stock market to prevent payment of taxes under the garb of LTCG. For the sake of argument if the said allegation is taken to be true, it only constitutes a cause of action under the Income Tax Act, 1961 and no cause of action arises under the SEBI Act.
- c) They were holding the shares in March, 2014 and any artificial manipulations during the period from February 2013 till March 2014 cannot not be attributed to them as they were not actively dealing in the said shares and simply made a profitable exit time to time ranging from March 2014 to October 2014.
- d) They will suffer irreparable loss by being restrained from accessing the markets. Further, there is not even an iota of reasoning against them after a bare perusal of the annexures brought on record and therefore there is no balance of convenience in favour of passing the injunction.
- e) The Hon'ble Supreme Court through a cantena of judgments has held the importance of a reasoned order, notwithstanding the fact that the SEBI Act itself states that such an order should be for reasons recorded in writing. For circumstances, mentioned above the reasoning given in the *ex parte* impugned order does not apply to them and continuance of this order against them would violate the well settled law of a 'Reasoned Order.'
- f) The Hon'ble Supreme Court has laid down guidelines for passing *ex parte* orders only where no irreparable loss would be caused and where it is essential to prevent further damage. In the given facts the said shares have already been sold by them and no further damage is being prevented by prohibiting them from accessing the market.
- g) The Hon'ble Supreme Court has further laid down that courts must bear in mind the loss caused to the reputation of the person and also as to a methodology to compensate the person if such an order is ultimately found to be incorrect. In the given facts, it was submitted that the noticees are facing economic loss in addition to the loss being caused to their reputation and there is no mechanism to compensate them if such an order is found incorrect, thereby making the passing of such order perverse *ab initio*.
- h) Their conduct in the past is clean and no allegation of any nature has ever been levelled against them. It is a well settled law that prior to passing any injunction, the past conduct of the party must be taken into consideration.
- i) With reference to allegation that that bids were placed by them at prices above the LTP constantly, they have submitted that even if the allegation is taken to be true it does not apply to them and is aimed at only members of the *trading group*. The highest price of the

scrip was recorded over ₹700/- whereas they have sold shares between ₹513-560 and also sold a part of their holding at ₹397/-. Further, had there been a collusion on their part, they would not have sold 24 % of their holdings in the month of March 2014. The same proves that they had not colluded and had no information about the price movement of the scrip.

- j) They have purchased the said shares with his own *bona fide* funds vide cheques and as such no overt act or foul play can be attributed to them. They have further submitted that the funds used for purchase of the said shares were accounted funds and that no nexus exists between them, the funding group and trading group and no reasoning of circulating the same funds. The same can be concluded from the perusal of the bank statement
- k) They have simply made a profitable exit at the available market price and as such is not guilty of any foul play or misconduct, notwithstanding the fact that the impugned *ex parte* order also makes no direct or indirect allegation against them, thereby making the order devoid of any reason and liable to be set aside.
- l) They have submitted that they have been purchasing shares in various scrips for long term investments and do not observe or monitor the stock market actively and have booked profits as and when they deemed appropriate to make exits.
- m) They have requested that the order against them barring from the accessing securities market may be set aside and any other order as deemed fit.

**(40) Mr. Neeraj Prakash and Ms. Mridu Prakash (did not appear):**

- a) The *interim order* passed is bad in law against the principles of natural justice and order has been passed without issuing any notice/letter to explain their stand in the matter.
- b) The *interim order* is bad in law their share trading account and demat accounts have been frozen immediately after passing the order whereas 21 days was given to file reply.
- c) They have no connection/relation of whatsoever nature with any of the entities (*Funding Group or Trading Group*) listed out in the order and the order period is based on surmises and conjectures without placing any evidence of record about their involvement in the matter.
- d) They have been provided with details of allottees and not provided with copies and documents on which SEBI was relying to levy the allegations against them. In the absence of documents, they will not be in a position to rebut the same or even place their facts in the matter.
- e) The present allegation is levelled against them as they have purchased shares @ ₹5/- each in HPC. The said shares were purchased from All Time Buildtech Pvt Ltd. and the payment against the said shares was made from their Saving Bank Accounts. The said purchase of shares was duly disclosed to the authorities in his Income Tax and Wealth Tax return and subsequently during the course of proceedings before the Authorities. The said

shares were purchased on January 14, 2013 and he started selling the shares after one and a half year from April, 2014 onwards.

- f) The shares of the Company were listed in stock exchange which is under the constant surveillance of Stock Exchange and SEBI and no such cautionary notice, objection or grievance were reported to them by any of the authorities. They have sold the shares in the stock market in a fair and transparent manner and no grievance have ever been raised on execution of their trades by anyone.
- g) They have submitted that
  - (i) The shares were purchased at the prevailing rates.
  - (ii) The shares were sold through the normal screen based trading systems of stock exchange in a transparent manner.
  - (iii) The shares were sold at the prevailing market rates as on that date and the all their transaction in shares were delivery based.
  - (iv) They have met all their obligations in respect of said shares.
- h) They have no relations/ financial dealing with any of the entities listed out in the order or its promoters, directors, or employees except for making payment to M/s All Time Buildtech Pvt Ltd for purchase of shares. They have absolutely no financial dealing with the companies mentioned in the order.
- i) They have submitted that the proceedings initiated against them may kindly be dropped and directions be issued to defreeze his demat accounts.

**(41) Ms. Ekas Chhabra** (Represented by Mr. Joby Mathew and Mr. Shantibhushan Nirmal, Advocates):

1. She has submitted that till date, SEBI has not provided her with the details of how the above documents were relevant to establish allegations, findings and charges made against her in the *interim order*. In view of the above, the said order has been passed in blatant breach of the well-established principles of Natural Justice and is therefore, bad in law.
2. She has invested in securities by using her own funds. In addition to her own understanding of the stock market, she also listens to tips and advices given to her by persons known to her. She intended only to make a profit or gains by sale of the shares after the shares were listed and on expiry of the lock in period and therefore, the alleged “poor and meagre fundamentals” of the company were not important considerations. Besides, she risked only a sum of ₹ 1 Lakh to take a chance, which by itself is neither illegal not *mala fide*.
3. She is not connected or related to any entity or person who has been allotted shares of the said Company and did not purchase the shares of any other company
4. No connection or relation is shown between her and the Company or between her and the directors or promoters of the Company or any other group. She has purchased 20,000 shares of the Company using her own money. Admittedly, there was no flow of funds to

her from the Company or its promoters or directors or any other groups as alleged or at all.

5. She has denied that her “.....acts and omissions were prima facie for generating fictitious LTCCG so as to convert unaccounted income of preferential allottees and pre-IPO transferees into accounted one with no payment of taxes as LTCCG is tax exempt.” She has further denied that she has “converted unaccounted income into accounted one with no payment of taxes.” or that she has misused the stock exchange system as falsely alleged or otherwise.
6. She has submitted that neither the Income Tax Department nor any other revenue departments have ever alleged that she has avoided tax by selling the shares of the Company purchased by her on payment of valid consideration.
7. She has sold the shares through her stock broker on the BSE and denies the allegation that she along with alleged connected entities used securities market system to artificially increase volume and price of the said scrip for making illegal gains and to convert ill- gotten gains into genuine one.
8. She was not aware of the counter parties to said sale/s and therefore, she denied that she was connected with the counter party to her trades or with the alleged trading group or the funding group or any other alleged entity. To the best of her knowledge, her orders were matched through an anonymous and automatic market-matching mechanism.
9. She has submitted that the relevant documents including the complete order log for the scrip of the Company for all the days she has traded has not been provided by SEBI. In the absence of the same, it is erroneous and false to allege that she was provided with an exit, whether profitable or otherwise, by the trading group.
10. There is no ground to pass an *ad interim ex parte* order against her and no urgency has been shown by SEBI for the restraint since the transactions took place around more than a year back and the profits from the sale still remains in her account.
11. Directions have been passed *inter alia* against persons and entities who have made a profit of more than ₹1 crore and the basis of such a discrimination is not stated in the order. Those entities and persons who are *preIPO transferees*, members of the *trading group* etc. who have made a profit of less than Rs.1 crore have been exempted from the prohibition from buying, selling and dealing in securities. Thus, the impugned order is in violation of the Principles of Natural Justice and shows a clear non-application of mind and ought to be withdrawn.
12. She was not at all aware of any purported “trading group”. She is neither aware of their contribution to the rise in price of the scripts by pushing up the price through positive contribution to the last traded price (“LTP”) nor their purchases from the *preferential allottees or pre-IPO transferees* as alleged. She denied that her trades have created artificial volume and/or contributed price rise in the said scrip.
13. She has submitted that an off—market transaction *per se* is not illegal. Therefore, the allegation that there have been connections on account of acquaintance and familiarity

and/ or the inference which is drawn only on the basis that there is connection between the parties only because of off-market transaction is erroneous, baseless and denied.

14. She is unaware of any funding group or trading group as alleged; the manner of increase of company's capital base and the transfer of shares by *preferential allottees* to *pre IPO transferees*.
15. SEBI has not provided any evidence to show that the so called "funding group" has funded her to purchase the shares of the Company in the said scrip. Hence it is not proven that she was a part of the manipulative or fraudulent trading as alleged.
16. She denied that her transactions in the said scrip was pursuant to a premeditated understanding, plan, device or artifice and trading group entities provided profitable exit to her.
17. She had only sold shares on 3 days and hence the analysis that uniform pattern of repeated placing of buy orders to push the price of the said scrip is erroneous and based on assumptions and not applicable to her.
18. She has submitted that SEBI has no jurisdiction to examine and come to a finding that she has avoided payment of tax. The Income Tax Department, and not SEBI, is empowered to do so under the Income Tax Act, 1961 and the rules and regulations framed therein. In this regard, it is pertinent to note that SEBI has come to such a finding without even examining her income tax records or her financial statements and therefore, such a finding is baseless, erroneous, false and unsustainable.
19. She denied violating regulations 3 and 4 of the PFUTP Regulations and the provisions of Section 12A (a) to (c) of the SEBI Act, 1992 as alleged.
20. She has not been subject to any regulatory action by SEBI or any other agency of the Government and therefore, there is no reason to assume that she will participate in any fraudulent activity henceforth. Thus, there is no reason for the emergent, *ex parte* and *ad interim* directions against her. In this regard, it may be noted that SEBI has not addressed a single letter to her prior to passing the impugned order and therefore, there is no ground to assume that she would not co-operate with any enquiry or investigation by SEBI.
21. She has prayed that the directions passed against her vide the impugned order may be revoked immediately and an order may be passed accordingly. She further prayed that she may be granted an opportunity of personal appearance / hearing before any final order is passed in the matter.
22. Merely because she invested her own monies for purchasing shares of a Private Company, it is erroneous to come to a conclusion that she was connected with the seller i.e. All time Bultech Pvt. Ltd., as alleged or otherwise and no other connection or relation between her and the seller has been established by SEBI.
23. She has submitted that none of the documents given by SEBI establishes or proves the allegations and findings against her. The copy of the purported trade and order log provided by SEBI to her is not complete as it does not contain the details of orders placed

by the counter party to her trades. In the absence of the same, it cannot be alleged that she and her counterparty had an understanding or that the counterparty provided an exit to her, as falsely alleged or otherwise.

24. She has submitted that the date of sale, which SEBI has relied upon is based on the contract note, but the trade date in the trade log is different from the date in the contract note. No explanation has been provided for such discrepancy. She merely instructed her stock broker to sell the shares and was not aware of or involved in placing the sell orders on the BSE.
25. SEBI has provided her with a copy of a Table giving details of *Pre-IPO transfer*, however, there is nothing on record to substantiate as to on what basis the said table has been prepared. Hence, the same cannot be relied upon against her.
26. She has requested that in the interim and until the matter is finally decided by SEBI, she may also be given the same relaxation given in the following matters:
  - i. Mr. Amresh A. Mody, Ms. Hasumati A. Mody and Mr. Anil Rajat Agarwal & Sons HUF in the matter of Radford Global Limited and
  - ii. Mr. Shrenik Nain Zaveri in the matter of Mishka Finance & Trading Ltd. including but not limited to the following: -
    1. She may be permitted to subscribe to units of the mutual funds including through Systematic Investment Plan and redeem the units of the mutual funds so subscribed;
    2. She may be permitted to avail the benefits of corporate actions like rights issue, bonus issue, stock split, dividend, etc.;
    3. She may be permitted to sell the securities lying in her demat accounts as on the date of the *interim order*, in orderly manner under the supervision of stock exchange and deposit the sale proceeds in interest bearing escrow account and/ or fixed deposit with a nationalized bank and/or to utilize for subscription to units of mutual funds which shall always be held in the demat form and if such units are redeemed the proceeds thereof be credited to aforesaid escrow account or may be utilized for subscription of mutual funds;
    4. Further, she may be permitted to utilize upto 25% of the value of their portfolio as on date of the *interim order* for business purpose and / or for meeting other exigencies.

(42) **Mr. Sanjeev Gupta and Ms. Namita Gupta** (Represented by Mr. Sanjeev Gupta):

- a) They have made the investment out of their own funds from their bank account and do have any relationship with the referred Promoters, Directors, Funding Group or other entities of the Company, in any manner.
- b) The "Pre-IPO Allotment" was to Non- Promoter Category and they have never met

the Promoters, Management Team, Officers or Staff members of the referred investee company at all even till date.

- c) During April 2014, post the shares becoming lock-in free, they decided to sell their holdings in a pre-defined price range of ₹550/- to ₹600/- executed through their regular brokers; without any reference or assistance or guidance from the referred Promoters or Directors of HPC or the *Funding Group* or the *Trading Group*, referred to in the *interim order*.
- d) Realizations out of the sale proceeds have been deposited in their bank account and remains in their possession, uninterruptedly since then.
- e) They have never known, met or interacted with the *Trading group*, *Funding group*, 'Promoter, Management or any of the employee' of the Investee Company and have sold their shares honestly only with the objective of maximizing their returns.
- f) The entire share transactions have been done by them in an independent manner with no premeditated understanding, plan, device or artifice. They do not know the buyer on stock exchange, nor have ever met directly or indirectly from any other persons connected with them or through Promoters or Directors of HPC or the Funding Group or the Trading Group, referred to in the *interim order*, at all on this matter.
- g) The noticees objected to the conclusion made on the basis of a mere acquaintance or familiarization of *pre IPO Allotees* with the Promoters or Directors of the Company enabling *pre IPO Transferees* in their favour; as being with a prior understanding, arrangement and purpose.
- h) They have decided to invest mainly due to a known business person giving a reference about this investment and advocating about the Company's prospects as an investment decision. Moreover, the investment was at par and the amount of investment was also too small.
- i) They have strongly denied and objected to their share acquisition being clubbed under any prior understanding, arrangement and purpose with anyone at all.
- j) They have genuinely invested and exited from of the stock without any collusion with purchaser, or any other persons mentioned in the order and strongly denied and objected to any conclusion made on their transaction being assumed and clubbed to be one with a premeditated understanding, plan, device or artifice.
- k) They have never been part of any manipulative practices, in any of the Capital Market or Economic Activities of the Country.
- l) They had "no means" and "no intention" regarding the matching of trades, at all. There was no such 'connectivity' in their case.
- m) They have objected to the inference that the entire *pre IPO Transferees* acting in concert with *funding group* and *trading group* have in concert used the stock exchange artificially to increase volume and price of the scrip for making illegal gains.
- n) They have objected to the fact that the entire scheme is for making illegal gains and to

convert ill- gotten gains to genuine ones and calling the gains as “fictitious LTGC”, so as to convert unaccounted income of pre-IPO transferees into accounted one with no payment of taxes.

- o) They have submitted that there has been no manipulative or fraudulent intent that can be inferred from various factors such as conduct, pattern of transactions, etc. Such intention may be demonstrated from the attending circumstances also. This has been referred to and observed by Hon'ble SAT in *Ketan Parekh Vs. SEBI*, Appeal no. 2/2004 decided on July 14, 2006.
- p) The resultant profit has already been disclosed by them in his Income Tax Return filed under Section 139(1) on August 31, 2015 and the due taxes have already been paid.
- q) Currently there are no shares remaining unsold with him of HPC hence no impact shall be caused by granting them the relief.
- r) They have requested for removal of the restraint imposed on them and for passing of order discharging them from the applicability of the order and also from any proceedings.

18. I have considered the allegations levelled against the noticees in the interim order, their replies/written submissions and other material available on record. I note that in the instant case, the directions issued against the noticees are interim in nature and have been issued on the basis of *prima facie* findings. SEBI had issued directions vide the *interim order* in the matter in order to protect the interests of investors in the securities market. Detailed investigation in the matter is still in progress. Thus, the issue for consideration at this stage is whether the *interim* directions, issued against the noticees vide the *interim order*, need to be confirmed, vacated or modified in any manner, during the pendency of investigation in the matter.

19. The facts and circumstances of the instant case as brought out in the *interim order*, *prima facie*, show the *modus operandi* employed by the four companies, their directors, their promoters, *preferential allottees/pre IPO transferees, Trading group and Funding group*, who made a façade of preferential allotment followed by their respective IPOs. Once the shares were listed on the stock exchange, the *Trading Group* entities started pushing up the price of the scrip through manipulative trades and increased the prices of the scrips astronomically. After the expiry of the lock-in period, the *Trading Group* entities purchased shares from the *preferential allottees* and *pre-IPO transferees* at artificially increased prices. In the whole process, entities of the *Trading Group* provided a hugely profitable exit to the *preferential allottees* and *pre IPO transferees*. Consequently, the *preferential allottees* and *pre-IPO transferees* have collectively made a profit of ₹614 crore. The connection amongst the various entities across categories (companies, *preferential allottees, pre IPO transferees, Trading Group and Funding Group*) have been explained in the *interim order*. It was therefore alleged that the *preferential allottees, pre IPO transferees* acting in concert with *Funding Group* and *Trading Group* have used the stock exchange system to

artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one. It is important to note that the whole scheme could not have been possible without the involvement/connivance of companies and their promoters and directors as the *preferential allotment* was the first and vital step in the whole scheme.

20. Before dealing with the replies/submissions of the noticees on merit, I deem it necessary to deal with the preliminary and common submissions raised by some of the noticees. The first 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 them by SEBI before passing the *interim order*. 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 directions by the *interim order* have been examined and dealt with in the *interim order*. The *interim order* has also been issued in the nature of show cause notice affording the noticees a post decisional opportunity of hearing. 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 portions of few such judgments are referred to hereinafter:-

(a) Hon'ble Bombay High Court in *Anand Rathbi & 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."*

(b) Hon'ble High Court of Judicature for Rajasthan at Jaipur in the matter *M/s. 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..."*

- (c) Hon'ble Supreme Court of India in the matter of *Liberty Oil Mills & Others Vs Union Of India & Other* (1984) 3 SCC 465 observed as under:

*"It may not even be necessary in some situations to issue such notices but it would be sufficient but obligatory to consider any representation that may be made by the aggrieved person and that would satisfy the requirements of procedural fairness and natural justice. There can be no tape-measure of the extent of natural justice. It may and indeed it must vary from statute to statute, situation to situation and case to case. Again, it is necessary to say that pre-decisional natural justice is not usually contemplated when the decisions taken are of an interim nature pending investigation or enquiry. Ad-interim orders may always be made ex-parte and such orders may themselves provide for an opportunity to the aggrieved party to be heard at a later stage. Even if the interim orders do not make provision for such an opportunity, an aggrieved party has, nevertheless, always the right to make appropriate representation seeking a review of the order and asking the authority to rescind or modify the order. The principles of natural justice would be satisfied if the aggrieved party is given an opportunity at the request. "*

21. I, therefore, do not find any violation of principles of natural justice while passing the *interim order* as contended by the noticees. 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. 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 regulate the securities market, “*by such measures as it thinks fit*”. Apart from this plenary power, section 11(2) of the SEBI Act enumerates illustrative list of measures that may be provided for by SEBI in order to achieve its objective. 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. 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, 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.

22. 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 securities market and 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*.
23. 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 these noticees with regard to the scope of the *interim order* and the power of SEBI in the matter.
24. Some of the noticees have further contended that there was no emergent situation that existed which warranted SEBI to pass the *interim order* without providing them an opportunity of personal hearing. In this regard, I note that the time taken to arrive at a decision/action, as in this case, is dependent on the complexity of the matter, its scale and *modus operandi* involved and other attendant circumstances. The power under sections 11 and 11B of the SEBI Act can be invoked at any stage i.e. either during pendency or on completion of inquiry or investigation. In the present case, the *modus operandi* where suspected entities were misusing the stock exchange mechanism came to light only in June 2015. Further, the *interim order* clearly brings out the reasons and circumstances for issuance of *ex-parte ad-interim directions*. I, therefore, do not find any merit in the above common contention of the noticees.
25. Another contention of the noticees is that the open restraint order is in breach of their fundamental right to carry on business under Article 19(1)(g) of the Constitution of India. Article 19(1)(g) guarantees to all citizens, the right to practice any profession or to carry on any occupation, trade or business. However, at the same time it is pertinent to mention that this

freedom is not unbridled, as clause (6) of Article 19 authorises legislation which imposes reasonable restrictions on this right in the interest of general public. It is a matter of common knowledge that the Securities and Exchange Board of India, 1992 is a special Act enacted by the Parliament conferring on SEBI the duty to protect the interests of investors in the securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit. In the present case, the restraint order has been passed by SEBI in exercise of the powers conferred upon it by law and towards fulfilment of the duties cast under the SEBI Act. As noted in the *interim order*, the conduct of the noticees has been found to be *prima facie* fraudulent and the noticees have therefore been restrained from accessing the securities market and dealing in securities till further directions. It is a settled law that while exercising his fundamental rights, a person cannot commit an act which is forbidden by law. In view of the above, I find that the open restraint order against the noticees is not in violation of Article 19(1)(g) of the Constitution of India.

26. Some of the *preferential allottees* and the *pre IPO transferees* have further contended that SEBI has attached their demat accounts without any direction made in the *interim order*. According to them, such an act of SEBI is beyond the powers conferred on it, as section 11(4)(e) of the SEBI Act requires an approval from a Judicial Magistrate and that the same has not been obtained before attaching the said accounts. To address this contention, it is pertinent to note that section 11(4)(e) of the SEBI Act requires an approval of the Judicial Magistrate of the First Class only for the purpose of attachment of “bank account(s)”. It is important to mention that section 11(4)(e) does not apply to demat accounts. I note that vide the *interim order*, the noticees have been “restrained from accessing the securities market and buying, selling or dealing in securities, either directly or indirectly, in any manner, till further directions”. Towards implementation of the said direction, the demat accounts of the noticees have been suspended for credit and debit. Thus, neither any direction for attachment of the noticees’ bank accounts has been issued vide the *interim order* nor have any of the accounts been attached pursuant to the SEBI’s *interim order*. Therefore, the requirement of prior permission of the Judicial Magistrate under section 11(4)(e) of the SEBI Act does not arise.
27. Many of the noticees have contended that after giving permission to make preferential allotment, granting listing and trading permission for the shares issued in preferential allotment, the issuance of the same cannot be questioned. In my view, this contention has no merit as preferential allotment is like any other corporate action/instrument, allowed as per the extant regulations for raising funds by corporate bodies for their business requirements. However, the same become questionable/doubtful when it is used as tool for implementation of any dubious plan or *mala fide* intention as done in the instant case in the manner described in the *interim order*. The preferential allotment in the present matter done by the four companies was a façade as described in the *interim order*. I, therefore, find no merit in the above submission.

28. The *preferential allottees/pre IPO transferees* have contended 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 the companies, or their promoters or directors or with any entities who are alleged to be indulged in the price manipulation or with the *Trading Group* entities. According to these entities, the basis of connection/relation with the companies is merely the preferential allotment and connection with the *pre IPO transferees* was the transfer of shares of Eco/Esteem/CNE/HPC from *preferential allottees* in physical form. The *preferential allottees* and the *pre IPO transferees* have also contended that they are regular investors in the securities market and have invested in the scrips from their own funds considering a good investment opportunity with the sole intention of earning profit. They further submitted that certain persons/entities approached them and offered a proposal to invest in the scrips.
29. It is trite to say that the preferential allotment of shares is an issue of shares by an issuer to select person or group of persons on a private placement basis unlike a public issue where funds are raised by inviting subscriptions from public in general. It is also a matter of common knowledge that a preferential allotment is made to the persons/entities on a one-to-one basis who are acquainted/familiar with the company and/or its promoters/directors. A preferential allotment is always for the purposes of meeting fund requirements of the concerned company and involves a covert, manifested and planned actions by the concerned parties, i.e.,-
- (a) the company to identify select persons/group of persons who are known to it or its promoters/directors for investing in its share capital;
  - (b) select persons/group of persons (preferential allottees) exercise due diligence and then finance the fund requirements of the company and subscribe to its shares issued on preferential basis;
  - (c) the company allots shares to the preferential allottees.
30. It is matter of common knowledge that in a private placement, wherein allotment is made to select persons or group of persons on one to one basis, the issuer and their promoters/directors have connection on account of acquaintance and familiarity. Such inference of connection becomes stronger in case of private placement by an unlisted companies whose shares are not tradeable in market. Thus, it has to be inferred that in the case of preferential allotment by the aforesaid companies, the companies and their promoters/ directors had prior understanding, arrangement and purpose. A preferential allotment is not an “open to all” type of investment opportunity as sought to be contended by the noticees. A company will, in no case, make a preferential allotment to a stranger who just approaches it for allotment of its shares. A preferential allotment is always for the purposes of meeting fund requirements of the concerned company and involves a covert and manifested action on one part of the company to issue its shares on preferential basis to select persons/ group of persons who are known to it or its promoters/directors and on the other part of the preferential allottees to

finance the fund requirements of the company and subscribe to its shares.

31. The shares of Eco was listed on January 14, 2013, Esteem was listed on February 07, 2013, CNE was listed on March 12, 2013 and HPC was listed on March 19, 2013. Prior to the listing of the shares of the said 4 companies, the trading in their shares could have happened only between the entities on a one to one basis. Further, when asked during the personal hearing, the noticees/their authorized representatives failed to give any plausible explanation as to how the company could make allotment to the *preferential allottees* if they were not known to it or its promoters/directors. I also note that the noticees have not been able to furnish any satisfactory documentary evidence that they were approached by companies for the preferential allotment, or in providing the details of the offer made by companies to them and other details of communication between them and companies in that regard. It is important to note that financing of a company by way of preferential allotment, as found in this case, pre-supposes a nexus and prior understanding amongst the issuer, its promoters/directors and the allottees.
32. Further, the off market transactions between the *preferential allottees* and the *pre IPO transferees* in the said companies prior to their IPOs (i.e. when the companies were unlisted) demonstrates the connection between them. As explained in the *interim order*, the infusion of funds/purchase of securities of an unlisted company which lacked credentials suggests that the *preferential allottees* and the *pre IPO transferees* had nexus with the companies and their management. The ultimate beneficiaries of the whole scheme in question are the *preferential allottees* and *pre IPO transferees* and as such they cannot pretend to be oblivious to the scheme/plan/device/artifice in question. In view of the above reasons, I, hereby reject the contentions of the *preferential allottees*/noticees that they do not have any connection/nexus with the entities mentioned in the *interim order*.
33. Some of the *preferential allottees/pre IPO transferees* have contended that they have sold only a percentage of their total shares allotted under preferential allotment and were still holding shares in the companies. As explained in the *interim order*, it is noted that once these companies got listed in the SME segment of BSE, the *Trading Group* entities manipulated the price/volume of the scrips and then provided profitable exit to *preferential allottees and pre IPO transferees*. In a market, if the sudden supply is not matched by similar demand, the price of the security/goods would fall. Considering the same, any rational investor would not have dumped a large number of shares without facing the risk of a significant price fall until and unless he was sure of the demand side absorbing the supply. In this case, the entities of *Trading Group* created the demand against the supply from the *preferential allottees/pre IPO transferees*. In the whole process, the principle of price discovery was kept aside and the market lost its purpose. It is important to note that the *Trading Group* entities provided a huge profitable exit to the *preferential allottees and pre IPO transferees*. Further, in para 49 of the *interim order*, observations are already made

highlighting the need for passing an *ad interim ex-parte order* in the matter. Such observations were made after recording the fact that a substantial portion of the shareholding in the 4 companies were lying with the concerned entities.

34. The noticees have also contended that they have 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 the 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."*

35. In the present case, the *interim order* has observed *prima facie* as to how the stock exchange mechanism has been misused and manipulated for the purposes of giving profitable exit (*where the Trading group had already pushed the prices up through manipulation*) to the *preferential allottees/pre IPO transferees* for availing exemption on LTCG tax gains and /or for converting unaccounted income into accounted income.
36. As regard the common contention of the *preferential allottees/IPO transferees* that neither the stock exchange nor SEBI had raised any alarm bells as to price movement in the scrip, I note that it is a common knowledge that movement in the price of a scrip is driven by various factors. However, in the instant case, the steep price rise with low volumes followed by sudden increase in volume at high price at the relevant time cannot be assumed as a normal market trend when the buyers and sellers are known entities of company, i.e., *preferential allottees/pre IPO transferees* as sellers and entities of *Trading Group* as buyers. It may be noted that whether there is any concern with respect to trading pattern in scrip is a subject matter of examination/investigation in that scrip and its outcome. Any direction or measure, if warranted, based on the outcome of such examination/investigation, is a *post facto* action taken to safeguard the interest of investors in the securities market and protect the market from further damage, as done in the instant case. Thus, the time taken to arrive at such decision/ action is a subjective matter and completely vested on SEBI or the stock exchange and depends on the complexity of the matter, its scale and *modus operandi* involved. I, therefore, do not find any substance in the contention of the noticees.

37. The noticees have also raised another contention that they did not have any role in the

manipulation of the price of the scrip of the companies or in the entire plan described in the *interim order*. They have further contended that there is no material to prove that their acts were “fraudulent” and that they violated the provisions mentioned in the *interim order*. In this regard, I note that the facts and circumstances of the instant case discussed hereinabove and in the *interim order* indicate that the preferential allotment was an essential and important act in the whole scheme of things and the need to make such preferential allotment to achieve the end objective of the scheme has been amply brought out in the *interim order*. The *interim order* has reasonably highlighted the *modus operandi* wherein the company in nexus with the preferential allottees made a façade of preferential allotment ostensibly to increase the share capital base and thereafter listed the company with the aid of entities belonging to *Funding Group*. Once the shares of these companies were listed on the SME platform of the BSE, the *preferential allottees/ pre IPO transferees*, with the aid of the entities of *Trading Group*, misused the stock exchange mechanism to exit at a high price in order to book illegitimate gains with no payment of taxes as LTCG is tax exempt. Further, paragraphs 25 to 33 of the *interim order* specifically discuss the manner in which *preferential allottees and pre IPO transferees* sold their shares pursuant to abnormal increase in price in a manipulative way and made huge illegitimate profit in the whole process. The entire scheme of activities points to an inference that the preferential allotment, manipulation and resultant price rise was done only to favour the preferential allottees/pre IPO transferees to book profits which are tax exempt. In view of this background and facts and circumstances, I find that the acts of the noticees discussed in the *interim order* are *prima facie* fraudulent and in contravention of the provisions of securities laws mentioned therein. I, therefore, reject the contentions of the noticees in this regard.

38. The noticees have contended that they have not claimed any tax exemption on the income profit earned on the sale of shares of Eco, Esteem and CNE and they have paid Income Tax at the highest rate of 33.99% (30% Tax + 10% Surcharge + 3% Cess) without claiming any deductions and that despite the same, bald and sweeping allegation of generating fictitious LTCG so as to convert unaccounted income of *preferential allottees/ pre IPO transferees* and one with no payment of taxes has been made against them. Some of them have submitted the copy of income tax return or the copy of challan for payment of income tax. I note that the *interim order* has been passed against the entities therein for misuse of stock exchange mechanism for generating fictitious LTCG benefit. The claims made by the aforesaid *noticees* needs to be further verified and is a matter of further investigation. With respect to fictitious LTCG benefit, the matter has been already referred to Income tax Department, Enforcement Directorate and Financial Intelligence Unit. SEBI is investigating the probable violations of securities laws including the misuse of stock exchange mechanism for generating fictitious LTCG, wherein detailed investigation is still in progress.

39. The noticees have also contended that the off-market transaction/transfers are not illegal *per se*

and drew attention to the Order of Hon'ble SAT in the case of *Rajendra G Parikh vs. SEBI* (Appeal No. 44 of 2009). I note that off market transfer takes place between persons / parties known to each other directly/indirectly contrary to on market transfer / sale on exchange platform where the persons/parties do not know each other. It is not alleged in the *interim order* that off market transfers are illegal. Further, I note that, the facts and the circumstances of the afore-cited case do not apply to the instant matter as the noticees have sold the shares mostly to the entities of *Trading Group* (which they received in off-market transfers) with huge profit and thereby booking LTCG, which is the ultimate objective of the entire *modus operandi* employed by companies and other entities mentioned in the *interim order*. Also, it is brought out in the *interim order* that the ultimate beneficiaries of the whole scheme in question are the *preferential allottees and pre IPO transferees*. The facts and circumstances of this matter, in my view, strongly indicate that the issue of these shares was under a prior arrangement between them for the ulterior motive and the end objective of the scheme that has been brought out explicitly in the *interim order*. The *prima facie* connections as described in the *interim order* is not to be seen selectively but holistically.

40. The entities have contended that SEBI had adopted a discriminatory approach by including them in the *interim order* and excluding certain other *preferential allottees* and the *pre IPO transferees* from the purview of the same as they have not made a profit of ₹1 crore or more. In this regard, I find it important to mention that the *interim order* clearly mentioned that a detailed investigation in the matter is in progress. The fact that certain *preferential allottees* and *Pre IPO Transferees* have been left out in the *interim order* does not signify that they are outside the scope of SEBI's investigation or have been exonerated. At the stage of the *interim order*, directions were issued against entities whose role/involvement in the entire scheme was *prima facie* observed in light of the facts and circumstances at that stage. It is pertinent to clarify that appropriate action in accordance with the provisions of law will be initiated against entities (including the *Preferential Allottees and Pre IPO Transferees*) who are found to have played a role in the plan, scheme, design employed in this case.
41. Few noticees have contended that SEBI has made sweeping, bald and common observations against them, amongst others in the *interim order* and there has been no attempt to examine their particular and individual role in the matter. In this regard, it should be appreciated that the in the *modus operandi* as observed in the matter, individual contribution to the scheme might look to be insignificant but collectively it completes the circle of manipulation, deceit or fraud. Further, the manner of their linkages/connection with the others allegedly forming part of the scheme have been discussed in the *interim order*. Accordingly, I do not find merit in such submissions.
42. Further, the *preferential allottees/pre IPO transferees* have contended that their sell transactions

matched with the entities, who are not even mentioned in the *interim order*. Hence, the allegation that they were provided exit by *Trading Group* entities is erroneous. In this regard, I note that investigation in the present matter is still pending and the role of other entities in the entire *modus operandi*, including providing exit to the *preferential allottees/pre IPO transferees*, is also under investigation. As brought out above, I note that the connection/nexus between the noticees, companies and its directors/promoters is inferred based on the facts and circumstances of this case and the material available at this stage.

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

#### **I. Companies**

44. Pursuant to the *interim order*, the companies were given several opportunities of personal hearing which were adjourned on their request. I also observe that the repeated adjournments sought by them in the matter may have been just another way to delay the proceedings. During the last opportunity of personal hearing, the representatives of the companies requested for additional time for submitting a detailed reply. However, no such detailed reply was submitted despite affording sufficient time. In view of the same, I proceed to consider the material before me.

45. The companies have submitted that they have been regularly reporting the utilization of IPO proceeds as part of the half yearly results filed with BSE and have not violated the provisions of clause 46 of Listing Agreement entered with BSE. The companies have also submitted that they have intimated all the relevant information to the stock exchange and no information is concealed so as to enable general investors to take rational decision. Further, the companies have submitted that they have complied with the requirements of applicable laws, rules, regulations, including the listing agreement. In this regard, I note that the *interim order* has observed that all the companies collectively raised ₹46.53 crore from their IPOs out of which a total of ₹30.06 crore (around 65% of the IPO proceeds) were observed to be transferred back to the entities belonging to the *Funding Group*, either directly or through layering, instead of utilizing the funds for the IPO objectives. These details have been brought out in paragraphs 19-24 of the *interim order*. The companies have not made denied the same. Further, the companies have not provided with any documentary evidence to justify how and where the IPO proceeds were utilized in order to substantiate their contention that there was no material deviation of IPO proceeds. Therefore, submitting that their accounts were audited and that nothing was found fault with would not have any relevance at all. I, therefore find their above submissions to be without any merit.

46. The companies have submitted that their promoters were not involved in the alleged

price/volume movement of the shares of the company and have not traded in the equity shares. As mentioned in the *interim order*, the vital step towards the alleged 'scheme' lies in the preferential allotment of the shares of Eco, Esteem, CNE and HPC to the *preferential allottees*, the subsequent transfer to certain entities referred to as the *pre IPO transferees*. Such pre-IPO shares could be listed only by making an IPO and listing them along with shares issued in the IPOs which in this case were ostensibly made successful on account of financing by *Funding Group*. The respective companies, immediately after receipt of the IPO proceeds, routed back the said proceeds to *Funding Group* entities either directly or through layering. The whole scheme could not have been possible without the involvement/connivance of the four companies, their promoters and directors. Therefore, I reject the contention that the companies or its promoters were not involved in the scheme.

47. The companies have also contended that they have no connection with the *Trading Group* entities. With respect to the movement of funds, it was submitted that the accounts of the companies are audited on regular basis and that no fault in this regard was found. CNE and HPC have submitted that there is no '*Funding Group*' as per their knowledge. In this regard, I note that in the *interim order* (ref. paras 20 & 21, pictures 1, 2, 3 and 4), the entities, Aavia Buildtech Private Limited and Aavia Softech Private Limited (entities forming part of the *Trading Group*) received back the IPO proceeds from Eco, Esteem and HPC immediately after the receipt of IPO proceeds by the respective companies. Further, Mr. Ram Prakash, the director of the aforesaid two entities was found to be financing the IPO of Eco and Esteem through his various proprietorship firms. In the *interim order*, it was also noted that Goldline, the entity forming part of the *Funding group* received back the IPO proceeds from Eco, Esteem, CNE and HPC immediately after the receipt of IPO proceeds by the respective companies. I note that the companies have not provided any documentary evidence to defend themselves. Therefore, in light of the facts and circumstances, I do not find any merit in the contention of the companies that they are not connected with the *Trading Group* and are not related to the entities of the *Funding Group*.
48. The companies have raised the contention that the turnover of the company have increased from F.Y. 2010-11 to 2014-15. Further, CNE and HPC have submitted that the trading of shares on a very high price is nothing to do with the alleged group but was because of strong fundamentals. As brought in the *interim order* at para 6, I note that the Profit after Tax ("PAT") and Earning price Per Share ("EPS") of these companies had been consistently decreasing from FY 2012-13 onwards i.e. the period of sharp price rise of 6,265% in Eco, 3,150% in Esteem, 2,882% in CNE and 1,782% in HPC. Considering the facts brought out in the *interim order*, I note that the contention of the companies that the very high price of the scrip was supported by fundamental does not stand.

49. CNE have submitted that BSE has also seized with the matter and suspended the scrip for 10 working days for the same issue which amounts to double jeopardy. This argument has no relevance at all in the present matter. SEBI has taken action and imposed restrictions on the noticees in view of the alleged violation of the provisions of the SEBI Act and the PFUTP Regulations. BSE may have also taken action against the company under its bye-laws and rules and regulations. The same shall not therefore preclude SEBI from taking action for a possible breach of securities laws.

## II. Directors

50. I now proceed to deal with the submissions of Ms. Sakshi Saxena (Director of HPC) and Mr. Neeraj Mittal (director in Eco and Esteem). Ms. Sakshi Saxena had submitted that she had joined a company called Vishvas Projects Ltd., where she was learning secretarial work. She submitted that she was requested by Mr. B.K. Sabharwal (Promoter and Director of Eco and Esteem) and Tarun Chauhan (Director of HPC) to become an independent director of HPC for a short span of time in order to continue her secretarial training at Vishvas Projects Limited while pursuing Company Secretaries course from Institute of Chartered Secretaries of India. She was forced to become a director in HPC as otherwise she would have had to discontinue her training. Ms. Sakshi Saxena has accepted that it was her mistake to have become an independent director and that she filed form DIR-11 in respect of her resignation after receiving the copy of *interim order*. Though this noticee contended that she did not sign in any documents apart from Form -32 and her ID-proofs, it is noted from the extract of the Annual Report of HPC that she was the Chairperson of the Audit Committee of HPC. Further, it is also noted that the Board of Directors of HPC met fifteen times during the financial year 2012-13, wherein, Ms. Sakshi Saxena had attended 11 Board meetings.

51. Mr. Neeraj Mittal has submitted that he was independent director in Eco during the period March 05, 2012 to March 25, 2013 and in Esteem during the period March 06, 2012 to April 22, 2013. Mr. Neeraj Mittal has contended that he was neither aware of nor played any part or role into the scheme, plan, device and artifice as alleged to have existed/framed as he was an independent director not involved in the day to day operations of the companies. He also stated that he had participating in the Board meetings of Eco and Esteem. He further stated that he checked the requisite compliances of Eco and Esteem in their respective IPOs and that he did not find anything which was suspicious in nature. I note from the extract of the Annual Reports of Eco and Esteem for the FY 2012-13 that Mr. Neeraj Mittal has attended the Audit Committee Meeting as its Chairman.

52. I note that as per Clause 52 (III) (D) of the Listing agreement, the role of Audit Committee includes reviewing with the management, the uses/application of funds raised through an issue.

The extract of the Clause 52 (III) (D) of the Listing agreement is reproduced below:-

*“Reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document/prospectus/ notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public or rights issue, and making appropriate recommendations to the Board to take up steps in this matter.”* However, in the extant matter, IPO proceeds have been transferred mostly to the entities belonging to the *Funding Group* as brought out in the *interim order*. Both these directors were the Chairperson of the Audit Committees of the respective companies. Ms. Sakshi Saxena and Mr. Neeraj Mittal have not produced any document to show that they were appointed as ‘independent directors’. Secondly, even assuming them to be independent directors, they have not taken steps as required in terms of clause 52 of the Listing Agreement when they noticed that IPO proceeds were diverted. Further, the independent directors have an important role and responsibility in a company. In my view, the directors ought to have tried to ensure that the functioning of the company was carried out in full compliance with the applicable laws including the listing agreement. In this regard, I place my reliance on the order of the Hon’ble High Court of Madras in the matter of *Madhavan Nambiar vs. Registrar of Companies* {2002 108 Comp Cas 1 Mad) wherein it was observed that

*“13. .... A director either full time or part time, either elected or appointed or nominated is bound to discharge the functions of a director and should have taken all the diligent steps and taken care in the affairs of the company.*

*14. In the matter of proceedings for negligence, default, breach of duty, misfeasance or breach of trust or violation of the statutory provisions of the Act and the rules, there is no difference or distinction between the whole-time or part time director or nominated or co-opted director and the liability for such acts or commission or omission is equal. So also the treatment for such violations as stipulated in the Companies Act, 1956.*”

53. The position of a ‘director’ in a company comes along with responsibilities and compliances under law associated with such position, which have to be fulfilled by such director or face the consequences for any violation or default thereof. In view of the above reasons, I find Ms. Sakshi Saxena and Mr. Neeraj Mittal to also be responsible for the affairs and conduct of the respective companies, in which they were the directors, in the present case.

### **III. Trading Group**

54. I shall now proceed to deal with the allegations in respect of entities at serial nos.7-13 being part of the *Trading Group*. I note that Steady Capital Advisory Services Pvt. Ltd., Sure Portfolio Services Pvt. Ltd., River High Right Share Brokers Pvt. Ltd., Trucklink Vinmay Trading Pvt. Ltd., Mr. Jai Kishan and Mr. Shankar Lal Gupta did not attend the personal hearings despite

sufficient opportunities. Further, no contention on merit were made in the submissions made by them. Accordingly, I hereby conclude that they have no submissions or objections to be made with respect to the observations and directions made against them in the *interim order*.

55. Surya Medi-tech Ltd. (a Trading Group entity – at sr. no.13) has submitted that it had purchased 16,800 shares of Eco on March 14, 2014 on the stock exchange at a price of ₹471/-. According to the entity, it had sold in off-market, 7200 shares on March 15, 2014 and 9600 shares on March 19, 2014 to Aavia Buildwell Pvt. Ltd. and Accurate Buildwell Pvt. Ltd., respectively, when it realised that there was no possibility of any gain from these shares. However, from the data provided by the BSE, I find that this entity had purchased 7,200 shares of Eco on February 28, 2014 at a price of ₹445/- and 9600 shares of Eco on March 07, 2014 at the price of ₹490/, instead of 16,800 shares on March 14, 2014 as claimed by it. Further, I also note that share price of Eco closed at ₹499/- on March 14, 2014 and at ₹510/- on March 19, 2014. These prices are higher than the price at which Surya Meditech Ltd. sold the shares of Eco through off market transactions. Surya Medi-tech Limited has also submitted that it had purchased 1,200 shares of Esteem on March 28, 2014 on market at a price of ₹428/- and had later on sold shares to Accurate Buildwell Pvt. Ltd. on May 02, 2014 through off market transaction. However, from the data provided by BSE, I find that Surya Medi-tech Ltd. had purchased 1,200 shares of Esteem on March 07, 2014 at a price of ₹428/-. Further, I note that shares of Esteem closed at a price of ₹604.70/- on April 30, 2014. The same is higher than the price at which this entity had sold the shares to Accurate Buildwell Pvt. Ltd. through off market transaction. Moreover, it is seen that both Aavia Buildwell Pvt. Ltd. and Accurate Buildwell Pvt. Ltd. are part of the *Trading Group* and are observed to be related/connected directly/indirectly to other entities of the *Trading Group* and also to Eco. In view of the above, the transactions of this entity cannot be viewed as simple transactions. Accordingly, I do not attach credence to such submissions.

#### IV. Preferential allottees/pre IPO transferees

56. Mr. Mohit Hisaria has contended that he had made a profit of ₹98 Lakhs and not ₹1 crore as alleged in the *interim order*. It is noticed that Mr. Mohit Hisaria had sold a total quantity of 22,200 shares at an average price of ₹454.1149/-, thereby, making a profit of ₹1,00,25,850/- (*arrived at by multiplying the number of shares sold with the difference between Average Selling Price of ₹454.11 and the Bonus adjusted purchase price of ₹2.5/-*). In view of the above, I do not find any merit in the contention of the Noticees that SEBI has adopted a discriminatory approach in the matter.
57. Ms. Ekas Chhabra has contended that SEBI has no jurisdiction to examine the issue of avoidance of taxes which falls under the purview of the Income Tax Department. I note that the *interim order* has reasonably highlighted about the *modus operandi* wherein the companies in nexus with the *preferential allottees/pre IPO transferees* was able to float equity shares on preferential

basis and thereafter entities of the *Trading Group* in concert with the *preferential allottees/pre IPO transferees* misused the stock exchange mechanism to provide exit to *preferential allottees/pre IPO transferees* at a high price in order to generate fictitious long term capital gain (LTCG). The *interim order* has clearly described the manner in which price and volume of the scrip were *prima facie* manipulated by the entities. 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 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 *the trading group* and *preferential allottees/pre IPO transferees* 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) thereof and section 12A(a), (b) and (c) of the SEBI Act, 1992. I, therefore, reject the contention in this regard.

58. Mr. Nishil Gupta (*preferential allottee in Esteem*) has contended that he was residing at Stamford Connecticut, USA during the Financial Year 2012-13 and therefore the findings in para 36 of the *interim order* that 'It is matter of common knowledge that in a private placement, wherein allotment is made to select persons or group of persons on one to one basis, the issuer and their promoters / directors have connection on account of acquaintance and familiarity', is not applicable to him. This noticee has not denied being a *preferential allottee*. In his reply, he has himself stated that he was advised by his father (Mr. Satinder Paul Gupta) to subscribe to the shares. A person need not be present in India to apply/subscribe to a preferential allotment. Therefore, I do not find any merit in the contention raised by him.
59. Mr. Chetan Kunverjibhai Thakkar and Mr. Jayanaben Thakkar have raised the issue of discrepancy in the data furnished by SEBI and that gathered from the BSE website/contract notes received by them. Based on clarification received from the BSE, it is noted that the differences as pointed out by them have happened due to introduction of new system by BSE during April 7, 2014. However, I note that the said discrepancy in data is not material enough to have a bearing on the findings of the *interim order*.
60. Considering the above observations in the light of the facts and circumstances of the case and the material on record indicate that noticees were acting in concert towards a common objective that has been brought out in the *interim order*. The investment made by the *preferential allottees/pre IPO Transferees* cannot be termed as a rational investment behaviour and such investment, as in this case, could be possible only if the *preferential allottees/pre IPO Transferees* had nexus with the companies, their promoter /directors and the issue of such shares was under a prior

arrangement between them for an objective other than for providing equity capital to the company. The trading data also reveals that most of the shares sold by the *preferential allottees and pre IPO transferees* were bought by the entities of the *Trading Group*. In my view, this cannot be termed as a coincidence especially when sellers have nexus with the company, as mentioned in the *interim order*. As brought out in the *interim order*, ultimate beneficiaries of the whole scheme in question are the *preferential allottees and Pre IPO Transferees*. It is beyond reason to hold that the company, its promoters/directors, *Trading group* and *Funding group* would devise the impugned plan/scheme for the benefit of the entities who are neither party to the plan/scheme nor have any complicity in the plan with others. As, the noticees, who are the *preferential allottees/pre IPO transferees*, are the ultimate beneficiaries, they cannot pretend to be oblivious to the scheme/plan. The facts and circumstances of this case, in my view, strongly indicate that the issue of these shares was under a prior arrangement between them for the ulterior motive or the end objective of the scheme that has been brought out explicitly in the *interim order*.

61. Accordingly, I *prima facie* find that the *preferential allottees, pre IPO transferees* acting in concert with *Funding Group* and *Trading Group* have used the stock exchange system to artificially increase volume and price of the scrip for making illegal gains and to convert ill-gotten gains into genuine one. The whole scheme could not have been possible without the involvement/ connivance of companies and their promoters and directors.
  
62. As the 107 noticees (covered under this order), have failed to give any plausible reasoning/explanation, at this stage, 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 in the *interim order*. The list of these noticees is as under:

S. No.	Name of Entities	PAN
1	Eco Friendly Food Processing Park Ltd.	AACCE0416B
2	Esteem Bio Organic Food Processing Ltd.	AAACE1925D
3	Channel Nine Entertainment Ltd.	AABCC8801H
4	HPC Biosciences Ltd.	AABCH6762Q
5	Ms. Sakshi Saxena	BLRPS4522G
6	Mr. Neeraj Mittal	AAFPM8349F
7	Steady Capital Advisory Services Pvt. Ltd.	AATCS2130B
8	Sure Portfolio Services Pvt. Ltd.	AATCS2129L
9	River High Right Share Brokers Pvt. Ltd.	AAGCR2643P

10	Trucklink Vinmay Trading Pvt. Ltd.	AAECT4670L
11	Mr. Jai Kishan	APBPK8097B
12	Mr. Shankar Lal Gupta	AKEPG0828N
13	Surya Medi Tech Ltd.	AALCS3282L
14	Mr. Ram Avtar Gupta	AAMPG7571Q
15	Ms. Savita Gupta	AEFPG8410F
16	Mr. Atma Ram Khatri	ACDPR7654N
17	Mr. Hira Lal Khatri	ADMPK9802D
18	Mr. Rajesh Chawla	AACPC7067R
19	Mr. Mukesh Chawla	AACPC7068A
20	Mr. Sanjeev Verma	AADPV5705E
21	Mr. Pawan Kumar Singhal	ADNPK1527C
22	Pawan Kumar Singhal HUF	AADHP4727Q
23	Mr. Reeta Singhal	ABTPS0061P
24	Ms. Akansha Singhal	CGPPS3517P
25	Mr. Mohit Hissaria	ABKPH4283M
26	Mr. Prateek Gupta	AIEPG1462E
27	Mr. Satinder Paul Gupta	AAPPG2434D
28	Ms. Minakshi Gupta	ADUPG2221J
29	Mr. Sahil Gupta	AGMPG0589J
30	Ms. Neelam Gupta	AAHPG5907D
31	Mr. Tarsem Chand Gupta	AAHPG5906C
32	Ms. Priya Gupta	AETPG5835L
33	Mr. Nishil Gupta	AIKPG3052G
34	Mr. Sudarshan Kumar Sachdeva	ABAPS5155K
35	Ms. Vijay Laxmi Sachdeva	ABAPS5157M
36	Mr. Sanjay Sachdeva	ABBPS5022Q
37	Mr. Anil Sachdeva	AQOPS2031B
38	Mr. Ekta Sachdeva	BKEPS8583H
39	Ms. Urvashi Sachdeva	DNUPS8667F
40	Ms. Sushma Bajaj	AIMPB4769K
41	Mr. Munish Bajaj	ABHPB1469L
42	Ms. Monika Goel	AAIPG1121A
43	Mr. Rakesh Kumar Goel	AAPPG3572L
44	Mr. Sandeep Narang	AAAPN2282K
45	Ms. Tanya Narang	AQBPN5620N
46	Ms. Bharti Batra	AEOPB3108E
47	Mr. Navel Kishore Gupta	AETPG1792C
48	Mr. Jagdish Chand Gupta	AGKPG9668A
49	Mr. Mukul Gupta & Satish Kumar Gupta	ALAPG3350L
50	Ms. Kaushalya Garg	AADPG5893L

51	Mr. Manoj Singhal	AAHPS9299N
52	Mr. Kapil Sachdeva	AAXPS1493G
53	Mr. Gaurav Sachdeva	AAXPS1700Q
54	Ms. Bhupinder Kaur	AOOPK2220E
55	Mr. Harcharan Singh	ARRPS5413M
56	Dinesh Agarwal HUF	AACHD5831J
57	Mr. Shreyans Sankhwal	ALRPS8216N
58	Mr. Arun Sankhwal	ABIPS4714N
59	Mr. Madhu Sankhwal	ABIPS4715P
60	Ms. Sarika Sankhwal	ARJPS5757N
61	Mr. Rajan Sahni	ABGPS0921H
62	Mr. Navin Sahni	ABGPS0922E
63	Mr. V Balsubramaniam	AAGPB1427L
64	Ms. B Rajeshwari	AAEPR5593F
65	Mr. Vikas Raj	ADJPR7115B
66	Mr. Sudhir Aggarwal	AAGPA8954P
67	Mr. Chetan Kunverjibhai Thakkar	ACNPT4287B
68	Mr. Prithvi Sudhir Vora	APZPV0747H
69	Mr. Sushant Muttreja	AJZPM7650C
70	Mr. Ankur Jain	AAFPJ7614L
71	Mr. Abhishek Jain	ADDPJ5506C
72	Mr. Suresh Chand Jain	ADVPJ1356J
73	Ms. Shalini Gupta	AGYPG1226G
74	Mr. Shaleen Kumar Singh	ASPPS3078P
75	Gaurav Garg & Family HUF	AAEHG6995E
76	Ms. Geeta Gupta	ABUPG0904C
77	Ms. Anjana Garg	AFBPA0663F
78	Ms. Urmil Rathi	AAHPR9561N
79	Mr. Anchal Rathi	AEWPA2450G
80	Ms. Shweta Rathi	AHWPM2448P
81	Ms. Jayanaben Nayanbhai Thakkar	ABHPT6904C
82	Mr. Vijendra Goyal	ABRPG5287F
83	Moran Plantation Pvt. Ltd.	AACCM0442K
84	Parasramka Holdings Pvt. Ltd.	AACCP2436Q
85	Mr. Anuj Maheshwari	ABCPM0456H
86	Ms. Bimla Vij	ADQPV7816E
87	Mr. Ashok Batra	ABOPB8988M
88	Mr. Prakash Agarwal Om	AAAHO4138H
89	Ms. Abhilasha Agarwal & Mr. Om Prakash Agarwal	AAEPA7336D
90	Sanjay Agarwal HUF	AAIHS3951G

91	Ms. Anshu Agarwal & Mr. Sanju Agarwal	ACMPA2650C
92	Mr. Arun Kumar Jain	ACBPJ3957A
93	Mr. Neeraj Prakash	AAIPP1301R
94	Ms. Mridu Prakash	AGYPP5247Q
95	Mr. Vipul Chandra	AIHPC0099A
96	Mr. Ramesh Chandra Saraf	AARPS2666K
97	Ms. Madhu Saraf	AAUPS2341G
98	Ms. Nandini Pansari	AGDPP7573L
99	Mr. Gaurav Chandra	AGRPC3451C
100	Mr. Sanjeev Gupta	AAHPG1456D
101	Ms. Namita Gupta	AAMPG5487F
102	Mr. Nitin Kumar Bardia	AFHPB4072M
103	Mr. Nikesh Bardia	AIMPB9015E
104	Ms. Vidushi Kothari	AOEPK7545Q
105	Mr. Ekas Chhabra	AUKPC5480A
106	Mr. Sagar Jain	AMNPJ8901E
107	Mr. Vikas Gupta	AAHPG8607Q

63. Having dealt with the contentions of the noticees as aforesaid, I note that majority of them 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 have 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. That is why several relaxations, such as allowing investment in mutual fund units, permission to liquidate existing portfolio and keep the proceeds in escrow account and even utilize 25% of the proceeds for meeting exigencies, etc. have been made in the past. Now at this stage, considering the facts and circumstances of this case and submissions/oral arguments made before me, I deem it appropriate to make further relaxations so as to address the issues of the personal and business exigencies or other liquidity problems.

64. 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 June 29, 2015 read with Corrigendum Order dated January 04, 2016 as against the aforesaid 107 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.;
- (f) tender the shares lying in their demat account in any open offer/delisting offer under the relevant regulations of SEBI.

**65.** Further considering business and personal exigencies and liquidity problems submitted by the restrained entities I allow them further relaxations/reliefs as under:-

- (a) They are permitted to sell the securities lying in their demat accounts 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 and the shares of the four scrips in the SME segment covered under this order, 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 64;
  - 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.

*\* 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 both) 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.

**66.** It is however, clarified that the aforesaid exceptions/relaxation/reliefs shall be available:-

- (a) To the aforesaid 107 noticees and not to entities with respect to whom *ex parte* confirmatory orders have already been passed as mentioned in para 12 of this order.
- (b) The common interim reliefs already granted in the matter earlier are subsumed in the aforesaid general relaxations/reliefs. The specific reliefs granted if any, to any of the noticees shall remain in operation.

67. 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.

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

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

**DATE: AUGUST 25<sup>th</sup>, 2016**  
**PLACE: MUMBAI**

**Sd/-**  
**RAJEEV KUMAR AGARWAL**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**