

FRAUD IN INDIAN CAPITAL MARKETS: SAHARA NE KIYA BE SAHARA

(A CASE STUDY OF SAHARA INDIA AND ITS SUBSIDIARIES)

Abstract:

It is a case of One Big Corporate House. It thinks that by legal, political and all other connections in the Indian Society we can do anything and we are not answerable to anyone. The corporate group wants to take advantage of loop holes in the Indian legal system. But one person stands against it and finally he succeed. So instead of blaming the system we should utilize it properly.

Introduction

Generally the companies have to raise funds by getting permissions from SEBI and other related agencies. The main aim or object of raising fund and the time period for which the funds are collected should be mentioned in the application made to SEBI. But these rules is nt followed by the well-known group company Sahara Group Co viz Sahara REC (Real Estate Company) and Sahara HIC (Housing Infrastructure Company).

Facts of the Case

In the year 2010 Sahara Group Companies have applied for IPO.As per rules of SEBI following information needs to be given in the application form

- 1 How much funds to be raised
- 2 Existing Debt Structure of the Company
- 3 Duration of the funds raised
- 4 Utilization of funds collected
- 5 Other Partners/Percentage of funds collected from Public, Institutional Investors, FII s , FI s and others.

This all the above information needs to be disclosed along with the DRHP.

In the year 2008 RBI has banned Sahara Group Co to raise funds. But in the year 2010 it wishes to collect money by way of OFCD (Optionally Fully Convertible Debentures). OFCD means collecting money in the form of cash (Debt) and convert it into shares after some time, time or duration is not specified in DRHP by SAHARA. This is the reason the scheme i.e. IPO is not in the benefit of investors. The members of SEBI objected to this. The stand taken by the company was that the funds were collected from Family Members, Family Friends, Employees & Well-wishers; this IPO is not opened to general public.

The question arises whether the Family friends, Family Members, Employees & Well-wishers were nearly .4 Crores and amount collected from them is 24000 Crores Rupees. Then SEBI made a order to stop funds raising by SAHARA Group. Now the SAHARA Group goes to court against SEBI. The real battle starts here.

The company has 60 lacs investors records with them. All these cannot be companys staff, relatives of members. Mean while SAHARA Group has used all the ways legal or illegal to close the matter.

The stand taken by co is that OFCD has not come under SEBI, it is not shares or debentures and we have not made this investment public. But Sec 67(3) of Companies Act, 1956 says that if there are more than 50 investors in any scheme by any company then SEBI approval is required and this investment cannot be treated as private investment.

SEBI proves that the object of the company is not to follow any rules of regulator and to be free from any regulator of Indian Financial System.

Finally the stand taken by the SEBI has been accepted and Supreme Court has ordered SAHARA Group to pay back the funds collected from investors.

All this fraud has been detected Dr.K.M.Abraham , Director of SEBI in the year 2010.

Many other frauds in Indian Financial Markets such as

1 Commodity Exchange – MCX- Mr.Jignesh Shah, Promoter of MCX

2 Sharada Chit Funds - Sudipta Sen, Chief Conductor of Sharada Chit Funds

Recommendations to prevent these frauds

1 Political influence by corporates should be minimized

2 Laws or Rules should be framed in such a manner that there is no loopholes in the system.

3 Judicial Proceedings should be solved or processed as early as possible

4 Fast Track Courts should be formed

5 Justice Delayed is Justice Denied so this may lead to major loss to the investors and to the society at large.

6 Liberty should be given to Govt Officers to work as per the system. No influence of political parties and ministers and others.

7 Investors complaints should be resolved quickly

8 More and more fines should be imposed.

Conclusion :

1 We are always saying that our legal system has loopholes & it has many weaknesses. But if we properly utilize and interpret it then we can get justice.

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2 One should use or take full advantage of legal provisions in India for the welfare of general public.

3 The mind set of law makers should be understood.

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