

Investor's Safety analysis under the aftermath of the SAHARA SCAM (2012)

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ABSTRACT:

The story of one of the India's biggest financial frauds came into light when SEBI got notice of the SAHARA Group of companies (AKA SAHARA Pariwar) raising funds by issuing debentures and housing bonds for two of its newly incorporated subsidiaries called Sahara India Real Estate Corporation Limited (SIRECL) and Sahara Housing Investment Corporation Limited (SHICL) therein referred as SAHARAS, both being unlisted were not able to issue a public of shares and the prospectus of the companies revealed they were involved in infrastructural activities such as constructing bridges, roads and Shopping arenas. It also mentioned the money to be used on housing projects like residential townships and apartments.

The research paper deals with the issue investor's safety and changes in jurisdiction exercised by the Securities & Exchange Board of India due to the SAHARA vs SEBI judgement and how it helped expand its power due to the interpretation of statutes given by the HON'BLE Supreme Court of India and regulations exercised by the body to ensure investors safety even when the securities are dealt outside the realm of registered exchanges. This research aims to compare the jurisdiction exercised earlier and the standard of safety ensured in the process of issuance of debentures by companies through the way of private placement also places it in comparison to a level of safety given by market regulatory body of another jurisdiction.

Further attempts to analyze the Supreme Court's interpretation and the effects of changes brought down by the judgement to affect investors safety at large in the market by increasing the powers of Securities and Exchange Board of India.

Much has changed after the interpretation given by the Supreme Court of India that to keep the record of the investors of private placement is not only in the act but also in the

regulations proscribed by the SEBI and Ministry of Corporate Affairs and must be documented and filed with the Registrar of Companies.

Also, the ruling of SAHARA vs SEBI gives out public offer requirements for any invitations of more than fifty people by a single issue and two hundred persons in a financial year breach of which would result in invalidation of the privately placed debentures and could risk penalizing the investor rather than the company which is responsible to perform the due diligence regarding the issue of debentures.

Also, Hybrid Debentures according to the interpretation given under the judgement are treated to be in ambit of regulations issued by the Securities & Exchange Board of India for the protection of the investors and are required to follow all the documentary and statutory requirement that non- Hybrid Debentures have an obligation to comply.

Also, depositing in a separate account for the purpose of subscription of debentures makes it convenient to investigate the flow of money in case a dispute arose with the regulatory body which was not present at the time of issue of OFCDs by SAHARAS.

**KEYWORDS: SECURITIES, INVESTOR PROTECTION, COMPANIES ACT, OFCDs,
SEBI, DEBENTURE, MARKET.**