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2nd Year, BA, LL.B.**ANALYSIS OF THE REGULATIONS ON MUTUAL FUNDS IN INDIA****ABSTRACT**

Mutual funds which literally means pooling together the funds from the investors in a secured platform to give wide-ranging return aspects, has extended its growth in the 20th century era of rapid competition and globalization. Its scope is widely accepted as another means of investing in securities rather than going to a stock exchange and investing with preliminary knowledge. Mutual funds allow diversification of portfolio investment which reduces risk to a recognized level. This attracts the potential investors for dealing in mutual funds and getting a desired rate of return. Due to its fast changing economies of business, the Securities Exchange Board of India has come up with the necessary strict guidelines. The same extends its boundaries in regulating the registration criteria as well as giving scope of compliance in code of conduct. This ensures proper abidance of the mutual fund units in the legal atmosphere. The same has also been interpreted in the court of law hearing the matters of disputes between investors or grievance while dealing in the mutual funds from time to time. This had ensured the propagation of the sense of equity, justice and conscience in a proper manner emanating even in the corporate sectors of India.

INTRODUCTION

Mutual funds can be easily referred as a economic vehicle that collect money from potential investors around the world and divert them into collecting the securities from the market. These investors have a sole objective and this money is examined properly and then decided by the high level experts where to invest. A good portfolio management will always ensure the highest return with a significantly lowest risk and in the lowest time. Since there is a lot scope of diversification, the overall risk of money that is invested is reduced to almost zero though some extraordinary circumstance may lead to some downfall in the market. The mutual funds normally come with a series of schemes and objectives which are launched from time to time and place to place as per the prevailing market position.

Since the mutual fund occasionally deal with the public money and that too in a large proportion, the legal set up of the country like India has left no stone unturned to reach its roots and bind upon the same with regulations. Mutual Funds have witnessed a series of stakeholders as regulatory bodies like Reserve Bank of India, Ministry of Finance, Income Tax authority and most importantly Securities Exchange Board of India. Any mutual fund is required to be registered with SEBI before it can operate freely in public domain. This led to the formulation of SEBI (Mutual Funds) Regulations in 1996 which led to better supervisions on working and code of conduct of Mutual Funds in India

OVERVIEW OF SEBI (MUTUAL FUNDS REGULATIONS)

SEBI (Mutual Funds) Regulations had been notified by the central government on December 09 1996 with the aim to have proper regulations of Mutual Funds in India and so that it could provide better performance and service to all the categories of people in the nooks and corner of the country. This also ensures maintaining proper confidence of potential investors in the market. The same regulation is divided widely into 10 chapters and 12 schedules. The important aspects of the regulation can be categorized and described in the following manner:-

A. ELIGIBILITY CRITERAL FOR REGISTRATION AS MUTUAL FUNDS:-

SEBI regulations mandatorily follows series of guidelines and rules which needed to be followed by Mutual Funds unit before commencement of their business which can be described as follows:-

1. Every Mutual Fund unit which is willing to start their business in India should have a sound track of record and general reputation of fairness and integrity in all of its business transaction
2. The applicant of the same should be in a fit and proper condition of undertaking the business
3. In scenario of existing mutual funds, funds must be mandatorily in the form of trust and a trust deed must be approved by Board
4. The sponsor must contribute at least 40% to the net worth of the Asset Management Company.
5. The sponsors and directors must never be guilty of fraud and moral turpitude and should not have a track of economic offence.
6. Appointment of trustee must be mandatorily as per the provisions of the regulations.
7. The custodian acting in the duty of safekeeping of the securities and gold must be registered with the SEBI and should provide custodial service as and when necessary.

B TERMS AND CONDITION FOR REGISTRATION

The SEBI in aside of the above mentioned criteria also provides a set of conditions for giving proper registration to mutual fund. This includes firstly compliance of the asset management company,, sponsor and trustee with the SEBI(Mutual Fund) Regulations. Secondly every Mutual Fund must mandatorily submit any false or misleading information submitted to SEBI either knowingly or unknowingly. Thirdly, the mutual Fund unit shall give necessary information directly to SEBI for any kind of change in the material information or particulars previously submitted. Lastly there should be proper payment of fees as specified under the regulation.

C. ELIGIBILITY CRITERIA FOR APPOINTMENT AS ASSET MANAGEMENT COMPANY

Asset Management Company is the company which directs its assets for establishment mutual fund units. Not any mere company can start its business in mutual funds. Some of the criteria are necessarily mentioned in the SEBI (Mutual Fund) Regulation which gives a restrictive applicability of the same. Some of the major eligibility conditions are:-

1. Asset Management Company should have a sound track of record

2. Asset Management Company should be a fit and proper person.
3. Directors of Asset Management Company must have a professional experience in finance and financial service and should not be guilty of moral turpitude or any offences
4. Key Managerial Persons of the Asset Management Company must not be guilty of any offence of both violation of law and economic.
5. The chairman of the Asset Management Company must not be a trustee of the mutual fund
6. Asset Management Company must have a net worth of more than or equal to 50 crores of Rupees.

D. CODE OF CUNDUCT FOR ADVERTISEMENT OF MUTUAL FUNDS

Any Mutual Fund engaging in advertisement for promotion of their business must follow necessary guidelines like propagation of only fair, true and accurate information in advertisement. The advertisement must not contain any false and misleading information of any kind as well as biased or deceptive assumption. Additionally no celebrities can take part in advertisement of the same. Advertisement must have a standard warning with legible fonts stating about the risks associated with the mutual funds and investing in the same. It should run for minimum of 5 seconds and must be clear and understood by any layman.

E. GENERAL CODE OF CONDUCT OF MUTUAL FUNDS

It has been specifically mentioned in the SEBI (Mutual Fund) Regulation that all the schemes of mutual funds must not take into account of interest of only sponsors, directors or any special kind of unit holder. Moreover it shall periodically disseminate fair and timely information to all the stakeholders. Similarly excessive concentration with brokerage firm must be avoided at any cost. There should be a high degree of fairness, integrity and equity in the ordinary course of business by the trustee and Asset Management Companies

RECENT COURT'S INTERPRETATION OF THE MUTUAL FUND'S REGULATION

1. Mr Mayank Prakash vs Adjudicating officer, SEBI¹

This case law revolves around the dispute of the Kotak Mahindra Mutual fund which was holding a certification under SEBI registration guidelines and was offering fixed maturity schemes to the public. The Asset Management Company of the Kotak Mahindra was directly the fund manager fixed maturity schemes. Mr Mayank Prakash, the fund manager of the aforesaid scheme was alleged to violate the Regulation 25(B) of the Mutual Fund Regulations approved by SEBI. The violations include 1. Failure to ensure that the fund invested is directed in achieving the objectives of the scheme and 2. Failure in ensuring that the basis of collecting scrip wise investment, was directed in achieving objective and goal of the scheme.

So in the response of the above allegation the noticee resigned as an employee of the Kotak Asset Management Company and joined the BNP Paribas Asset Management India Private Limited.

The SEBI after hearing both the side of the dispute and taking into consideration of the reply letter of the noticee made a pronouncement that the Mr Mayank Prakash was not liable for the aforesaid allegations of violations.

CONCLUSION

Mutual funds are the necessary financial engineer working towards the financial propagation in the entire nation with its wide ranging platform. At the same time, the legal dynamics are also extending its roots to curb any kind of malpractices that can occur in the course of its business. SEBI has necessarily played a multifaceted role in compelling the mutual fund units to remain within their business and not exceed its boundaries in the matter of fraud and deceit. This had ensured boosting the investor's confidence as well as has paved the way for ensuring the rule of law even in the rapid changing corporate platform. With the sole principles of justice and equity, SEBI shall ensure that these regulations are amended from time to time and meet the ever growing need of the investors.

¹ ADJUDICATION ORDER NO. Order/MC/VS/2020-21/8238