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INSIDER TRADING

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ABSTRACT

In a world where each and every person strives for the best, where the authoritative people hold more power and use that power to their advantages is now something so common and a part of our lives that we don't find such practices and behavior as something not normal. "Insider trading" is one such practice. The paper deals with the meaning, scope, prohibition of the insider trading along with focusing on the rules and regulations followed in India in relation to Insider trading.

KEYWORDS

Insider trading, corporate, SEBI

INTRODUCTION

The practice of insider trading includes both legal and prohibited activities. Insider trading takes places when corporate insiders like administrators, officers and staff get or sell stock in their own corporations within the reach of their company policy and also the rules governing the trading. In easy words 'insider trading' means buying and merchandising of a security, in breach of a legal duty or other relationship of trust and confidence while in possession of material and private information regarding the security. The practice of insider trading is not always prohibited and at times is important and beneficial to the company. The companies rather should enhance this practice as it helps in securing the interests of the insiders of the company which often leads to smooth functioning of the company in the long run. However when an insider does that on the basis on non-public information in breach of his fiduciary duty is when the practice is considered to be illegal.

RESEARCH PROBLEM

Insider trading is the most violent crimes prevalent in the corporate world. The concept, measures and scope of insider trading varies from one country to country. It is imperative to understand the concept in entirety so as to prevent such fraudulent practices and hence this research paper.

HYPOTHESIS

India's nationwide lockdown amidst the coronavirus pandemic has created a severe dislocation in the lives of its migrant population.

OBJECTIVES

The objective of this research paper is to study and examine the concept of insider trading. The paper covers the meaning, examples, rules and regulations to prohibit insider trading, how it is different in India along with the leading case laws.

MEANING OF INSIDER TRADING

Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, does not define the term "insider trading". However to clear the concept of insider trading the SEBI regulations define who is an insider, connected person and what does it mean by price sensitive information.

The definitions are as follows:

1. Insider

   Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 defines insider as a person who is or was connected or is deemed to have been connected with the company and is expected to access or previously had access to the unpublished price sensitive information in regard to the securities of the company. There are two types of insiders a company can have which are as follows:

   A. Primary Insider

      Primary insiders are people who are connected to the company directly.

   B. Secondary Insider

Secondary insiders are those who are deemed to have access to the price sensitive information of the company, they are however not directly connected to the company.

2. Connected Person

   A connected person according to Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 means any person who is a director according to clause XIII of section II of the Companies Act, 1956, or is deemed to be a director of the company by virtue of sub clause X of section 307 of that Act or a person who is an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may be expected to have an access to unpublished price sensitive information in relation to that company.

3. Price Sensitive Information

   It involves any information related to the company whether directly or indirectly which if disclosed or published will likely affect the securities and their prices of the company.

INGREDIENTS OF VIOLATION

1. The necessity of being an insider of the company under Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992.
2. Possession of price sensitive information which is unpublished.
3. Dealing with the securities of the company.

WHY INSIDER TRADING IS PROHIBITED?

In a corporate world it is very important to initially gain and maintain the confidence of the investors in any company for a healthy growth and development in long run. The illegal practice of insider trading leads to lose of confidence of the investors in the company as they feel cheated leading to major loss to the company in long run. The practice of insider trading corrupts the corporate system. Therefore the practice of insider trading is prohibited.

INSIDER TRADING IN INDIA

In India regulation 3 of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 prohibit the practice of insider trading. Regulation 3 prohibits a person to practice insider trading whereas regulation 3A prohibits a company to practice insider trading based on any price sensitive information of another company.

POWERS OF SEBI

According to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, SEBI has power to investigate in the matters of the company on receiving a complaint. SEBI also has power to initiate investigation suo moto. SEBI may appoint officers to examine the accounts of the company. The company is required to cooperate with the investigating authority of SEBI. After the investigation process is complete the authority is required to furnish report to SEBI. After considering all the facts of the report SEBI may take necessary steps to prevent the practice of insider trading.

CONCLUSION

The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 acts as a silver lining for the small and poor investors of India. It tries to safeguard the interest of the investors by prohibiting illegal practices like insider trading. The prohibition of insider trading has gained significant importance in international arenas. However it is advised that SEBI should play a role of regulator only and special courts should be established for expeditious dispose of matters pertaining to insider trading.