

Understanding the Concept of Fraud, Corruption and Financial Frauds in India

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Abstract – Economic scams are a global phenomenon and have serious implications and consequences for the growth of economy of the country. There is a wide spread perception that the level and pervasiveness of economic scams are gaining significance. Post liberalization the economy of the country started to gain momentum due to integration of the country's economy with the world economy. A quantum leap was witnessed in various sectors such as Industrial sector Manufacturing sector, Services sector and even the Public sector. The mission of CBI is to uphold the Constitution of India and law of the land through in-depth investigation and successful prosecution of offences; to provide leadership and direction to police forces and to act as the Nodal Agency for enhancing inter-state and international cooperation in law enforcement. The vision of CBI is based on motto, mission and the need to develop professionalism, transparency, adaptability to change and use of science and technology in our working. Primary functions of CBI is to assist in the investigation of crimes such as murder, kidnapping and terrorism. In this Article we studied an overview on Fraud, Corruption and underlined the cases of Financial Frauds in India.

Keywords: Fraud, Corruption, Law, Financial Frauds, Economic Scams etc.

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I. INTRODUCTION

Corruption alludes to a huge scope of unlawful or illegal practices. It additionally characterizes corruption as —the maltreatment of public or private office for individual increase. A progressively complete definition would be —corruption includes conduct with respect to authorities in the general population and private divisions, in which they inappropriately and unlawfully enhance themselves and/or those near them, or incite others to do as such, by abusing the situation wherein they are set.³⁴ The fringe among corruption and fraud isn't exceptionally particular the same number of meanings of corruption have cover with that of fraud, yet at the same time there are instances of fraud with no corruption or corruption with no fraud, however where there is fraud there is frequently corruption.

II. FRAUD AND CORRUPTION

The significance and meaning of significant terms are displayed as pursues:

Fraud is legally some demonstration of purposeful double dealing, dishonesty, camouflage, or breaking

of certainty by one gathering through deception to increase some unreasonable bit of advantage. There are various kinds of fraud which are explained as pursues:

- ◆ **White Collar Crime and Economic Offenses:** White collar crime is characterized as —a crime committed over the span of one's occupation by an individual from the privileged of society; for instance, a clerk's duplicating checks or stealing money is among white collar crimes. Though, dealing a dutiable thing is only an economic crime and not a white collar offense as there is no connection between the individual's occupation and what he committed.
- ◆ **Financial Statement Fraud:** Various frameworks of control can be used to grant the presence of supportability in a misleading bookkeeping. —Overstating incomes by chronicle future anticipated deals, downplaying costs through such methods as promoting working costs, blowing up resources' total assets by purposely neglecting to apply a proper devaluation plan, concealing commitments off of the organization's balance sheet and off base divulgence of related party

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<http://www.oecdobserver.org/news/fullstory.php/aid/233/April2000/Paris>

exchanges and organized account arrangements are among the regular ways to deal with misrepresent the financial statements. Another choice to expel the presence of flimsiness includes what is known as —cookie-container bookkeeping rehearses where an organization downplays the incomes of one bookkeeping period to spare them for a time of a likely more regrettable presentation. Such strategies expel the presence of instability from the operations.

- ◆ **Internal, External and Collusive Fraud:** An internal fraud happens when the fraud is finished by the employee of an association. An external fraud happens if an outsider, for example, people or groups, submits fraud by taking cash from an association either by getting an illegal payment or keeping monies that must be discounted to the association. It is called Collusive fraud when an insider encourages submitting fraud for an outsider³⁵.

Despite the fact that there are some noteworthy contrasts between the terms fraud, social offenses, economic crimes, white collar crimes, and financial frauds, overall they are once in a while utilized conversely.

Fraud is a purposeful demonstration or inability to act to get an unapproved advantage to remove a legal right or property by distorting the realities. Instances of fraud incorporate, despite the fact that not restricted to:

- ◆ **Misappropriation of Cash Asset:** It incorporates —larceny; skimming; check altering; and fraudulent distributions, including charging, finance, and cost repayment schemes.
- ◆ **Corruption:** It incorporates irreconcilable circumstances, pay off, illegal tips and coercion.
- ◆ **Fraudulent Practices by Customers, Vendors or different Parties:** It incorporates influences or actuations, and fraudulent (as opposed to wrong) solicitations from a provider of data from a client.
- ◆ **Fraudulent Statements:** It incorporates —financial revealing, business accreditations, and external reportingll.
- ◆ **Misappropriation of Non-cash Asset:** It incorporates —larceny; false asset orders;

³⁵<http://www.cgg.gov.in/publicationdownloads2a/Fraud%20Risk%20Management%20-%20Good%20Practices%20Guide.pdf>

devastation, evacuation or unseemly utilization of records and gear; wrong revelation of classified data; and report fraud or modification.

III. FRAUDULENT FINANCIAL REPORTING AND SECURITY SCAM

There are five essential kinds of financial statement fraud: fictitious sales; inappropriate expense recognition; incorrect asset valuation; hidden liabilities and unsuitable disclosures³⁶.

3.1 Security Scam

A security trick has the highlights of —(i) control of offers of an organization; (ii) imposing business model in adapting to a colossal number of shares; and (iii) tax evasion which includes acquiring cash for exchanging protections yet utilizing the cash for another reason³⁷. As indicated by the Securities Exchange Act (1934) "It will be unlawful for any individual to participate in any demonstration, practice or game-plan which works or would work as a fraud or trickery upon any individual regarding the buy or sale of a security."

3.2 The Fraudulent Financial Reporting

It incorporates intentional beguiling control of financial statements. The term is utilized conversely with —accounting anomalies. Actually, it must be demonstrated that the manipulated financial statement makes hurt the recipient.³⁸

IV. FINANCIAL FRAUDS IN INDIA

The expanding number of financial frauds in India has turned into a genuine worry of the legislature. Among various kinds of financial frauds, accounting financial frauds are especially basic in business world. In this sort of fraud the evaluators, officials or executives of organizations adjust and control the financial statement of the organization intentionally to misdirect some party as securities exchange investigators or to procure a credit; a few instances of these fraudulent practices in India are examined in the accompanying areas.

Just about seven decades have gone since India's freedom in 1947, however because of an enormous number of corruptions, the country couldn't satisfy its extraordinary possibilities of development and flourishing. As proof, the absolute greatest scams in India are expounded underneath to demonstrate the purposes behind the inception

³⁶ <http://www.investopedia.com/articles/financial-theory/11/detecting-financial-fraud.asp>

³⁷ Newman, P., Milgate, M., & Eatwell, J. (1994). Palgrave dictionary of money and finance. London:Macmillan.

³⁸ Mulford, W. C., & Comisky, E. E. (2002). The financial numbers game detecting creative accounting practices. USA: John Wiley & Sons Inc.

and advancement of measures to be taken by the government to capture further such scams.

4.1 IPO Scam

The Initial Public Offering (IPO) scam in the YES bank uncovered by the Securities and Exchange Board of India (SEBI) practically through on the most recent day of the issues of the shares, stunned the market. SEBI restricted thirteen investors from exchanging the bank. The issues found almost no investments till the few a days ago and all of a sudden at that point saw over subscription in the last days. Onelife Capital Advisors had a phenomenal introduction on the bourse; the shares all of a sudden expanded 33 percent, changing the issue price of Rs. 110 for each share to Rs. 145.90. During the day, the stock changed in a scope of Rs. 173 and Rs. 114. On the National Stock Exchange, the scrip was at long last settled at Rs 145.95 per share piece, increasing 32.68 percent, being bought in 1.53 occasions till the 5th of October as the last day of the issue. It later had an ascent of somewhere in the range of 92 percent, and came to at Rs. 211.50 against the issue price of Rs. 110. Till the finish of the most recent day of its issue, the RDB Rasayans issue was bought in 1.5 occasions. Till the end, an idea of 4.5 million was completely gotten against a 6.75 million equity shares. The IPO was offered at the price of Rs. 72 to Rs. 79 for every share of Rs. 10 each.

The market controller additionally found their promoters and directors owning false expressions in their IPO outline. In addition, the organization and its directors mishandled the IPO to fund the losses brought about by certain exchanging customers on the primary day of posting. SEBI found the entire mediators, promoters, directors, and bankers who were controlling the related IPOs through making counterfeit offers for the IPO and enticing its being completely bought in. SEBI's crackdown against these cases was one of the greatest in a long time since the NDSL scam. Till further requests, SEBI precluded the promoters and top officials of the very organizations from getting to and managing in markets. The organizations were additionally requested to get back to all IPO continues still not manhandled by the organization over the entirety of its banks. The controller likewise disallowed the shipper bankers of these little IPOs, Atherstone Capital Markets (One Life Capital), Almondz Global Securities (PG Electroplast), PNB Investment Services (Taksheel Solutions), Chartered Capital and Investment (RDB Rasayans), D&A Financial Services (Brooks Laboratories) from contribution in any new capital issues including IPO, till further requests.

4.2 UTI Scam

As per Joint Parliamentary Committee Report (2001), —of all the ongoing experiences of the Indian public

with the much-commended powers of the market, the Unit Trust's US64 failure is the worst. Its belongings surpass the mid-1990's downswing of the stock market, causing a loss of Rs. 20,000 crore in investment funds. This fiasco prompted the loss of one million employments and suicides of certain investors. There is a decent exercise in sinking of this —super-safell public division device which was normally returning since 1964. The emergency was all because of botch as its managers as opposed to putting resources into low-gambled government bonds with fixed-income, were persistently putting resources into high-hazard stocks and shares with no-fixed income.

Since 1999, the service has been screening UTI. To put it plainly, it was the UTI scam, yet in addition the government scam brought about by bungle by a government vanquished by its wrong —macroeconomic calculations. One progressively compelling exercise of UTI failure is that —If an entrenched, and as of not long ago well-overseen, organization like UTI can't protect public investment funds, at that point we ought not permit the most valuable of such reserve funds - annuities - to be put at risk. The exercise turns out to be additionally demanding considering the irregular, insecure stock market with twelve brokers controlling 90 percent of the exchanges. To dispose of its yearly Rs. 22,000-crore benefits commitment, the Finance Ministry has prescribed to privatize annuities and provident funds.

UTI began to put resources into certain favored scrips in the wake of being —politicised with some other financial establishments (FIs) as LIC and GIC. To underwrite the disputable economic approaches, these financial foundations were boosting the market falsely. In few past years, regardless of enough signs of the arriving at the finish of —technology boom, UTI made overwhelming investments in stocks of Ketan Parekh's preferred K-10 portfolio, for example, Himachal Futuristic, Global Tele and DSQ and lost practically 50% of its Rs. 30,000-crore portfolio esteem inside a year. In the start of this current year, US-64's net asset worth slipped less than impressive (Rs.10), while it was repurchasing US-64 above Rs.14. A few insiders announced that behind all these pivotal choices was the impact of the Finance Ministry. Afterward, the Finance Ministry was to turn around the post-budget market downturn. UTI's off-base speculation at that point, decayed with the global innovation —meltdown. US64 was obliterated. UTI administrator surrendered. He is by all accounts more a substitute.

4.3 Ketan Parekh

The former stock broker, Ketan Parekh, from Mumbai was charged in 2008, for being occupied with the Indian stock market control scam in late

1999-2001. Because of which he has been restricted from exchanging the Indian stock exchanges till 2017. Parekh was blamed for round exchanging with a wide range of organizations, including Global Trust Bank and Madhavpura Mercantile Co-employable Bank. Having constructed enormous amassed positions in select scrips, for example, HFCL, Zee Tele, DSQ Software and Global Tele, such huge positions were continued by working through countless elements over the exchanges, and managing broadly through CSFB Broking and CSL Securities. Promoters of certain organizations gave enormous funding accumulating to around Rs 800 crore. These activities of Ketan Parekh and his partner substances were gone for making a fake market in specific scrips, adding up to market control that damaged SEBI Act and Regulations.

Ketan Parekh and elements got generous funds through the abuse of banking systems. These sums according to the accessible proof were Rs 1,200 crore, with signs that this money had been utilized in stock market operations went for market control in specific scrips. Ketan Parekh had a nexus with certain FII sub-records and OCBs, through which huge transactions in select scrips were done. The example and the way of these transactions showed the cornering of shares, roundabout exchanging, stopping courses of action and organized plans prompting market control. Examinations in the price developments in the Global Trust Bank (GTB) scrip had by all appearances built up that preceding the declaration of a merger among GTB and UTI Bank, the GTB scrip was manipulated by Ketan Parekh and substances, having concentrated possessions much over the five-percent-limit. There indicated a nexus with a portion of the promoters of the bank, and at first sight, this is infringement of SEBI Act and Regulations.

4.4 Satyam Scam

Satyam Scam is considered by certain experts in India as —India's own Enron scanda . Some relate it to a more extensive issue of India's cast and family-arranged corporate condition. Merrill Lynch (presently a piece of Bank of America) and State Farm Insurance wound up any connection and contribution with the organization, Credit Suisse put off its inclusion of Satyam. Reportedly, Satyam's auditing firm, PricewaterhouseCoopers, was to be explored for its complicity in this scam. The originator of Satyam, Ramalinga Raju, was captured two days in the wake of admitting to controlling the association's records and accused of criminal conspiracy, break of trust, forgery, and so on. On tenth January, 2009, Satyam's shares dropped down to Rs. 11.50, and following one day, on January 10, achieved its most minimal dimension since March 1998, contrasted with a tallness of Rs. 544 of every 2008. In 2008, Satyam shares in New York Stock Exchange topped at US\$ 29.10, while by March 2009 they were exchanging around US \$1.80. As the outcome of the scandal, Satyam as the 2008 victor of

the pined for Golden Peacock Award for Corporate Governance under Risk Management and Compliance issues, was then peeled off from all honors. The New York Stock Exchange and additionally India's National Stock Exchange stopped their relationship and inclusion with Satyam.

The Indian Government announced its plausible transitory immediate or aberrant liquidity backing to the organization; notwithstanding, the employment circumstance was still left unsure. Satyam was giving data to Price Waterhouse. On 14 January 2009, Price Waterhouse, the Indian division of Price Waterhouse Coopers, pronounced that its audit reports might be wrong and questionable as it was depending on the data given by the management of Satyam, however as per The Chartered Accountants Act, enacted in 1949, an auditor is in charge of the data gave to him by the management. On 22 January 2009, CID uncovered at court that the genuine number of Satyam employees is just 40,000 and not 53,000 as reported before, in view of which Raju was accepting Rs. 20 crore (US\$4 million) consistently for paying these 13,000 phony employees. At long last, on 13 April 2009, in a formal public sale, Tech Mahindra, a Mahindra and Mahindra claimed organization, bought 46 percent stake in Satyam. On July 2009, Satyam's administrations were rebranded as "Mahindra Satyam" at another corporate site, www.MahindraSatyam.com. C.P Gurnani is the present CEO.

4.5 CSFB's Trades

Credit Suisse First Boston, an outside broking firm, had enjoyed unpredictable exchanges to encourage the funding of Ketan Parekh substances by falling back on collusive exchanging with counter party brokers having a place with Ketan Parekh. One of the sub-records of CSFB was broadly utilized for transactions in select scrips as a major aspect of the manipulative procedure. For executing a transaction identified with a unit of Canara Bank in 1992, Ketan Parekh was condemned to one year of detainment, and Parekh is disallowed from any stock exchanging until 2017, however in 2009, the Securities and Exchange Board of India found that various organizations and operators were exchanging in the interest of Parekh. In light of that examination, twenty six elements were banned from trading.³⁹

4.6 Price Depressants

The Nirmal Bang group of entities trading alongside others seemed to have acted working together with the goal of discouraging the prices. Ketan Parekh additionally seemed to have turned to such anomalies as collusive exchanges, with considerable dealings through CSL Securities and

³⁹ http://en.wikipedia.org/wiki/Ketan_Parekh

through an unregistered entity, named Palombe Securities, which added up to market control. First Global Group and their associated entities enjoyed transactions with the aim of discouraging the prices of certain scrips that impacted the market pattern, with collusive transactions through non-descript entities, round trading, auxiliary game plans and unpredictable market practices. Shailesh Shah Group, Ajaj Kayan Group, Radha Krishnan Damani Group and BLB enjoyed transactions went for discouraging the prices bringing about unpredictable market practices. The job of JM Morgan Stanley Securities was additionally analyzed.

4.7 Harshad Mehta

The Indian stockholder, Harshad Shantilal Mehta, was blamed for twenty seven financial charges of which he was just sentenced for one. Mehta and partners exploited the numerous provisos in the banking system and emptied off funds out of between bank transactions, with which shares were purchased at a higher cost than expected crosswise over numerous industry verticals which made the Sensex rise steeply. At the point when the usual methodology of Mehta was uncovered, the banks demanded their money back, and the Sensex dove as significantly as it had risen. Mehta was accused of 72 criminal offenses and more than 600 civil action suits were documented against him. The illegal strategies for Harshad Mehta were uncovered on April 23, 1992. The urgent component for affecting the scam was the prepared forward (RF) bargain, which is basically a verified present moment (ordinarily 15-day) advance starting with one bank then onto the next, where the bank loaned against government securities. The getting bank offered the securities to the loaning bank and repurchased them toward the finish of the time of the advance a somewhat more expensive rate. Mehta partners utilized the RF manage an extraordinary accomplishment to channel money through banks. The securities and payments were conveyed through the broker in the settlement procedure. The broker functioned as a middle person who got the securities from the vender and handed them over to the buyer; and he got the check from the buyer to make the payment to the dealer. Such a settlement procedure implied, that both the buyer and the merchant would not know the identity of one another as just the broker knew them two.

Accordingly, while Mehta and partners, in actuality, exchanged a RF bargain, the vender gave the buyer a BR bargain which is an affirmation of the sale of securities. A BR is a receipt for the money gotten by the offering bank and promises to convey the securities to the buyer – however constantly, the securities are held in the vender's trust by the buyer. Presently, outfitted with these plans, Mehta required banks which would promptly issue counterfeit BRs, or ones without the assurance of any government securities. Complicit illegal accomplices were found

in the Bank of Karad (BOK), Mumbai and the Metropolitan Cooperative Bank (MCB), two little and minimal known loan specialists. The two banks consented to issue BRs as and when required. When the phony BRs were issued, Mehta passed them on to different banks that thusly loaned the money under the bogus supposition that they were loaning against government securities. Harshad Mehta and partners could deal with this strategy expertly as they had by then turned out to be outstanding as market producers, who had begun trading on their account. They claimed to attempt the transactions in the interest of a bank to keep up a façade of legality. Mehta utilized the money in this manner verified to improve the share prices in the stock market. The shares were then sold for critical profits and the BR retired when the time had come to restore the money to the bank. The continuation of the manipulative tactics of Mehta set off an immense ascent in the prices of stock and made a vibe decent market direction. On the scam being uncovered, a few banks discovered they were holding BRs of no value. Mehta had by then cheated the banks of a stunning Rs 4,000 crore. The scam was seriously scrutinized in the Indian Parliament, and Mehta was demonstrated liable by Bombay High Court and Supreme Court of India to participate in frauds at a value of Rs. 5000 crore on the Bombay Stock Exchange (BSE) 82, and was imprisoned. When he kicked the bucket in 2002, Mehta had been indicted in just one of the 27 bodies of evidence recorded against him. Nine years after the demise of Harshad Mehta, the Income Tax Department and the Public Sector Bank had the option to recuperate a critical bit of their cases from the sold assets of Harshad Mehta.

V. CONCLUSION

In the present running economy, the measures taken by the Indian government are not adequate enough to take care of the issues of over developing scams and other economic crimes. There is need of exacting provisions to manage such issues. The government is required to draw out specific reforms to defeat these issues, for example, to administer the crimes of economics the government ought to redo the laws since the current laws are not all that cruel. Because of absence of such reforms, the economics scams are expanding step by step and the equivalent not just sham the public money rather likewise influence the exchequer at high rates every year patching up of laws can put constrains on the commission of such economics crimes.

REFERENCES

- [1]. Anandswarup Gupta (2007). Crime & Police in India (upto 1861), reprint edition, Sahitya Bhawan, Agra.

- [2]. Dr. Dalbir Bharti (2006). Police & People Role and Responsibilities, 1st Edition, APH Publishing Corporation, New Delhi.
- [3]. J.C. Madan (1980). Indian Police Its Development upto 1905 An Historical Analysis, Uppal Publishing House, New Delhi.
- [4]. K.N. Chandrasekharan Pillai (2006). R.V. Kelkars' Lectures on Criminal Procedure, 4th Edition, Eastern Book Company, Lucknow.
- [5]. P.D. Sharma (1998). Criminal Justice Administration The Relay Race for Criminal Justice, Rawat Publications, Jaipur.
- [6]. Neil C. Chamelio & Kenneth R. Evane (1976). Criminal Law for Policemen, 2nd Edition, Prentice Hall, New Delhi.
- [7]. A. Abdurraheem: Corruption in India: An Overview (Causes, Consequences and Remedial Measures) Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs; Report (Vol. I).
- [8]. Effective Legal and Practical Measures for combating Corruption: A criminal justice Response - Dharam Chand Jain Anti-Corruption Laws and Departmental Enquiries" Orient publishing company, New Delhi 2008, p.87 - Reddy's

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