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MULTI- LEVEL MARKETING AND ITS LEGALITY IN INDIA

MLM abbreviated to be Multi- Level Marketing is otherwise known as network marketing or referral marketing. Multi- level Marketing is often confused with pyramid scheme in India. The most important difference between MLM and Pyramid Scheme/scam is that the former sells any product/ service where as the latter does not sell any.

Some of the well known MLM companies in India are Modicare, Avon, Vestige, Forever Living, Amway, Oriflame, etc. These companies have provided employment opportunities to home makers, unemployed, retired people, etc.

INDIAN MULTI LEVEL MARKETING

In MLM the distributors are also the buyers where the marketing of their product/service is done by distributor network like direct selling scheme in India. Here the distributors are encouraged by the companies to recruit new distributors by giving them commissions on the sales of newly recruited.

MULTI- LEVEL MARKETING'S LEGALITY IN INDIA

The legality of multi-level marketing is confused with the legality of pyramid scheme. Network marketing is legal in India and thus the Multi- Level Marketing, unless it qualifies as a Ponzi scheme or an unlicensed pyramid scheme business in India. It is lawful to join a pyramid scheme through a network as long as you are not asked to pay a fee to do so.¹

In 2016, the ministry of consumer Affairs, Food and Public Distribution Department of Consumer Affairs under the Government of India issued guidelines on Direct Selling and

¹ Sahil Mehta, The legality of multilevel marketing in India, Finaccl (Jan 17, 2024, 6:52pm) <https://finaccl.in/blog/the-legality-of-multilevel-marketing-in-india/#:~:text=Is%20network%20marketing%20legal%3F,a%20fee%20to%20do%20so>

Multi- Level Marketing in order to regulate the business and strengthen the regulatory mechanism.²

The guidelines are intended to provide a regulatory framework for the direct selling industry and to ensure that consumers are protected from fraudulent practices. It is important for individuals considering involvement in an MLM to familiarize themselves with the guidelines and to thoroughly research the company and its business practices before getting involved.³

The other laws governing MLM businesses in India are companies Act, 2013, Income Tax Act 1961, Consumer Protection Act 1986, Legal Metrology act 2009, etc.

CASE LAWS WITH RESPECT TO MLM IN INDIA

Kuriachan Chacko v. State of Kerala,⁴

M/s LIS, Ernakulam, a partnership firm engaged in the business of sale of lotteries and magazines after collecting advance money. They floated a scheme known as “LIS Deepasthambham Scheme.” The Scheme was simple in its conception. A person has to pay Rs 625 and purchase one unit of lotteries from the promoters. The promoters will make use of Rs 350 to purchase 35 lottery tickets of the Kerala State Government, each of Rs 10 for the unit-holder for the next 35 weeks. The unit-holder will be returned (paid) not only Rs 625 which he had initially invested but twice his investment i.e. Rs 1250 (less Rs 100 as service charges for the promoters and legal deduction for tax, etc.) on an early date.⁵

The Supreme Court in paragraph 34 held that in the instant case, both the essentials of Section 2(c) are present. The Scheme provides for (i) making of quick or easy money, and (ii)

² Adv Anant Sharma, Legality of Multi-Level Marketing (MLM) Companies in India: Lawyers Advice for MLM Companies in India | MLM Lawyer in India | MLM Lawyer in Delhi NCR, mylawyers.com (Jan 17, 2024, 9:05pm) <https://mylawyersadvice.com/legality-of-multi-level-marketing-mlm-companies-in-india-lawyers-advice-for-mlm-companies-in-india-mlm-lawyer-in-india-mlm-lawyer-in-delhi-ncr/>

³ Rest the case, <https://restthecase.com/knowledge-bank/multi-level-marketing-scam-or-legal> (last visited Jan 18, 2024, 8:05am)

⁴ (2008) 8 SCC 708

⁵ iPleaders, <https://blog.iplayers.in/multi-level-marketing/> (last visited Jan 18, 2024, 6:43pm)

it is dependent upon an event or contingency relative or applicable to the enrolment of members into the Scheme⁶

*State of Bengal vs. Swapan Kr. Guha, Sanchita Investments*⁷

In this case a partnership firm was registered with a share capital of INR 7000/- and the firm was engaged in the business of Investment and Finance. FIR was filed on the firm with the allegations that the firm reduced interest rate to 36 percent from 47 percent and the firm was also engaged in money circulation scheme. The Hon'ble Supreme Court held that activity involving fast money return will not come under section 2(c) of the Prize Chits and Money Circulation Schemes (Banning) Act of 1978 and stated that the allegations made in FIR is not correct.⁸

*Amway India Enterprises vs. Union of India*⁹

In this case the Hon'ble Supreme Court observed that there was a scheme which provides faster return of money to the distributor and distributor gets reward of the money and such activity comes under Money Circulation Scheme which is illegal as per the guidelines issued in Direct Selling Guidelines 2016. The judgement of the Hon'ble Supreme Court was based on Guidelines issued by Ministry of Corporate Affairs for Direct Selling Enterprises.¹⁰

CONCLUSION

Although multi-level marketing (MLM) is legal in India, it is advised to properly research before being a part of MLM and to abide by the laws. Not everything which is unlikeable is illegal and in the same way not everything which is legal never have adverse effects.

⁶ Ibid

⁷ AIR1981CAL157

⁸ Vidhikarya, [https://www.vidhikarya.com/legal-blog/legality-of-multiLevel-marketing-in-india#:~:text=Kuriachan%20Chacko%20vs.,-State%20of%20Kerala&text=The%20Hon'ble%20Supreme%20Court,Code%20\(IPC\)%20of%201860](https://www.vidhikarya.com/legal-blog/legality-of-multiLevel-marketing-in-india#:~:text=Kuriachan%20Chacko%20vs.,-State%20of%20Kerala&text=The%20Hon'ble%20Supreme%20Court,Code%20(IPC)%20of%201860) (last visited Jan 19, 2024, 8:17am)

⁹ AIR 2008 (NOC) 48

¹⁰ Supra note 8