

**AUDITORS' REPORTING
REQUIREMENTS
UNDER
THE COMPANIES ACT, 2013**

Presentation

By

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Reporting by the Company Auditors

For financial years ended on or before 31.3.2014

- Section 227 of the Companies Act, 1956.

For financial years starting on or after 1.4.2014

- Section 143 of the Companies Act, 2013.
- The Companies (Audit and Auditors) Rules, 2014.

Financial Year

- Section 2(41) – means the period ending on the 31st March every year
 - Exception could be made by a Tribunal if a company being holding or subsidiary of a company incorporated abroad and is required to maintain accounts for a different financial year outside India.
 - Provided that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause.

General Circular 08/2014 dated 4.4.2014

- Provisions of the CA Act, 2013 with regard to:
 - maintenance of books of accounts,
 - Preparation/adoption/filing of financial statements
 - **Auditors' report**
 - Board of Directors' Report
 - Provision of Schedule II (useful lives to compute depreciation)
 - Schedule III (format of Financial Statements) and
 - **Related Rules issued**

shall be applicable for financial year that commence after 1st April, 2014 only.

Extract of the General Circular 8/2014

- *“Although the position in this behalf is quite clear, to make things absolutely clear it is hereby notified that the financial statements (and documents required to be attached thereto), auditors report and Board report in respect of financial years that commenced earlier than 1st April, 2014 shall be governed by the relevant provisions/ Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing on or after 1 April, 2014, the provisions of the new Act shall apply.”*

Reporting by the Company Auditors

**For financial years commenced before 31.3.2014
but closed before 31.3.2015**

- Section 227 of the Companies Act, 1956 and
- CARO,2003 would be applicable.

Duties under Section 143 of the CA, 2013

- Subsection (1) – Six enquiries to be made.
- Sub section (2) & (3)– to make a report to the members on specified matters.
- Sub section (3) – Auditors Report to state other matters (as may be prescribed in Rules).
- Sub-section (11) – Central govt.'s power to ask auditors to report on specified matters.
- Sub-section (12) – Reporting of fraud by auditors.

Section -143(2)-Duties of an auditor

The auditor shall make a report :

- on the accounts examined by him and
- on every financial statements which are required to be laid before the company in general meeting.

Financial Statement

- Section 2(40) defines 'Financial statement' to include:
 - Balance sheet
 - Profit and loss Account
 - Cash Flow Statement
 - Statement of Changes in Equity , if applicable
 - Explanatory Notes
- Cash flow statement not applicable to :
 - OPC,
 - small company and
 - dormant company.

Sec 129(1)- financial Statement

- It shall give true and fair view of the state of affairs of the company,
- Shall comply with the accounting standards notified under section 133 and
- Shall be in the form in Schedule III.
- At every AGM of a company, the BOD shall lay before such meeting Financial statements for the financial year.

Sec 129(3)- CFS

- A company having one or more subsidiaries is required to prepare a CFS
- 'Subsidiary' for the purpose of this clause includes 'associates' and 'joint venture'.
- CFS shall be in addition to stand alone financial statement.
- Stand alone F/S to include a Statement containing salient features of F/S of subsidiaries in Form AOC-1.
- As per Rule 6 - CFS are to be prepared as per Schedule III and applicable accounting standards.

Section -143(2)-Duties of an auditor

The report shall, after

- taking into account the provision of the Act & Rules,
- the accounting and auditing standards and
- matters which are required to be included in the audit report,

state whether to the best of his information and knowledge, the said financial statements ,give a true and fair view of the state of company's affairs as at the end of its financial year and profit or loss and cash flow for the year.

Reporting u/s 143(3)(a)

The auditor's report shall also state:

- whether he has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements;

Reporting u/s 143(3)(b)

The auditor's report shall also state:

- whether, in his opinion, proper books of account as required by law have been kept by the company so far as appear from his examination of those books and proper returns adequate for the purposes of his audit have been received from branches not visited by him,

SECTION 143(3)(c)

The auditors' report shall also state:

- whether the report on the accounts of any branch office audited under sub-section (8) by a person other than the company's auditor has been sent to him under the proviso to that sub-section and the manner in which he has dealt with it in preparing his report?

SECTION 143(3)(d)

The auditors' report shall also state:

- whether the company's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns ?

SECTION 143(3)(e)

The auditors' report shall also state:

- whether, in his opinion, the financial statement comply with the accounting standards ?

Reporting u/s 143(3)(f)

The auditor's report shall also state:

- the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company,

Guidance Note on Reporting under Section 143 (f) of the CA,2013

- Observations or comments made by the auditor do not have adverse impact on the working of the company but they may contain matters which might have an adverse effect on the functioning of the company.
- If auditor's report is modified (qualified, disclaimer or adverse) or there is emphasis of matter and that has any adverse effect on the functioning of the company, then auditor is required to report under this clause after applying his professional judgement.
- No reporting will be required if, there are no modification or no matter of emphasis..

Example of reporting under Sec 143(3)(f)

- **Basis for Qualified Opinion**
- The Company's inventories are carried in the Balance Sheet at Rs. XXX (*As at 31st March 20YY: Rs. YYY*). The Management has not stated the inventories at the lower of cost and net realisable value but has stated them solely at cost, which constitutes a departure from the Accounting Standard - 2 "Valuation of Inventories". The Company's records indicate that had the Management stated the inventories at the lower of cost and net realisable value, an amount of Rs. XXX (*As at 31st March 20YY: Rs. YYY*) would have been required to write the inventories down to their net realisable value.
- **Qualified Opinion**
- In our opinion and to the best of our information and according to the explanations given to us, except for the effects of the matter described in the Basis for Qualified Opinion paragraph above, the aforesaid standalone financial statements give the information required by the Act in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India, of the state of affairs of the Company as at 31st March, 20XX, and its profit/loss and its cash flows for the year ended on that date.
- **Report on Other Legal and Regulatory Requirements**
- As required by Section 143 (3) of the Act, we report that:
- (f) The matter described in the Basis for Qualified Opinion paragraph above, in our opinion, may have an adverse effect on the functioning of the Company.

Example of reporting under Sec 143(3)(f)

- **Emphasis of Matters**
- We draw attention to Note Y in the financial statements which indicates that the Company has accumulated losses and its net worth has been fully / substantially eroded, the Company has incurred a net loss/net cash loss during the current and previous year(s) and, the Company's current liabilities exceeded its current assets as at the balance sheet date. These conditions, along with other matters set forth in Note Y, indicate the existence of a material uncertainty that may cast significant doubt about the Company's ability to continue as a going concern. However, the financial statements of the Company have been prepared on a going concern basis for the reasons stated in the said Note.
- Our opinion is not modified in respect of these matters.
- **Report on Other Legal and Regulatory Requirements**
- As required by Section 143 (3) of the Act, we report that:
- (f) The going concern matter described in sub-paragraph (b) under the Emphasis of Matters paragraph above, in our opinion, may have an adverse effect on the functioning of the Company.

SECTION 143(3)(g)

The auditors' report shall also state:

- whether any director is disqualified from being appointed as director under subsection (2) of section 164 ?

Reporting u/s 143(3)(h)

The auditor's report shall also state:

- any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith?

Reporting by auditor on books of account

- 143(3)(b) – on keeping proper books of accounts as required by law.
- 143(3)(d) - on agreement of financial statement with books of accounts maintained.
- 143(3)(h) – on qualification, reservation or adverse remark relating to maintenance of accounts.

Section 128- Books of Accounts to be kept by the company

- Prepare and keep at its registered office:
 - Books of accounts,
 - Other relevant books and papers and
 - Financial statement
 - For every financial year
 - To be kept on accrual basis and according to the Double Entry system of accounting
 - Which give a true and fair view of the state of affairs of the company including its branch office(s)
 - May keep in electronic mode in such manner as may be prescribed.

Books of Accounts

- Section 2(13) Books of accounts include records maintained in respect of:
 - All money received and expended
 - All sales and purchases of goods and services
 - The assets and liabilities and
 - The items of cost as may be prescribed under section 148. (cost records)

Guidance Note on Reporting under Section 143 (h) of the CA,2013

- If auditor's report is modified (qualified, disclaimer or adverse) and that modification is connected to or leads to books of accounts and/or financial statement prepared there from, then auditor is required to report under this clause.
- No reporting will be required if, there are no modifications.
- Reporting under 'Matter of Emphasis' in terms of SA-706 shall not trigger reporting under this clause.

Example of reporting under Sec 143(3)(h)

- **Basis for Disclaimer of Opinion**
- We were appointed as auditors of the Company after March 31, 20X1 and thus could not observe the counting of physical inventories at the beginning and end of the year. Accordingly, we were unable to satisfy ourselves by alternative means concerning the inventory quantities held at March 31, 20X0 and March 31, 20X1 which are stated in the Balance Sheet at Rs. XXX and Rs. XXX, respectively.
- In addition, the introduction of a new computerised accounts receivable system in September 20X0 resulted in numerous errors in accounts receivable. As of the date of our audit report, Management was still in the process of rectifying the system deficiencies and correcting the errors. We were unable to confirm or verify by alternative means accounts receivable included in the Balance Sheet at a total amount of Rs. XXX as at March 31, 20X1.
- As a result of these matters, we were unable to determine whether any adjustments might have been found necessary in respect of recorded or unrecorded inventories and accounts receivable in the Balance Sheet, and the corresponding elements making up the Statement of Profit and Loss and Cash Flow Statement.
- **Opinion**
- Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the financial statements.
- **Report on Other Legal and Regulatory Requirements**
- As required by section 143 (3) of the Act, we report that:
- (h) The reservation relating to the maintenance of accounts and other matters connected therewith are as stated in the Basis for Disclaimer of Opinion paragraph above.

Reporting u/s 143(3)(i)

The auditor's report shall also state:

- whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls;

Reporting on IFC u/s 143(3)(i)

- It has been deferred for one year i.e., up to 31.03.2015. (ICAI Press Release dated 20.10.2014)
- The auditor shall report on the existence of adequate internal financial control and its operational effectiveness for the financial years on or after 01.04.2015.
- The auditor may voluntarily report for the year from 01.04.2014 to 31.03.2015.
- Guidance Note on Reporting on IFC over financial reporting issued by ICAI in Sept.,2014 was withdrawn in Dec.,2014.

Internal Financial Control(IFC) means (Explanation to Sec 134(5)(e))

- **Policies and procedures adopted by the company for orderly and efficient conduct of its business including:**
 - Safeguarding of its assets,
 - Prevention and detection of frauds and errors,
 - Accuracy and completeness of accounting records and
 - Timely preparation of reliable financial information.

IFCs with w.r.t. financial statements

- Refer Rule 8(5)(viii) of the Companies (Accounts) Rules, 2014 relating to matters to be included in Board's Report.
- Rule specifies that adequacy of Internal financial controls to be reported is with reference to the financial statements.
- Internal Control over Financial Reporting (ICFR) means:
 - a process designed to provide reasonable assurance,
 - regarding the reliability of financial reporting and
 - the preparation of financial statements for external (general) purposes,
 - in accordance with prescribed accounting standards and generally accepted accounting principles.

Reporting Framework for ICFR

- On the same lines as required under Sarbanes-Oxley Act, 2003.
- Any of the recognised international framework such as COSO, CoCo and Turnbull can be used.
- Guide on ICFR issued by Committee of Internal Audit in 2007. (being revised now).
- Audit of ICFR is to be carried out along with an audit of the financial statements.
- SAs do not fully address the auditing requirements for reporting on IFCs. Some supplementary procedures need to be taken for this purpose.

Reporting u/s 143(3)

The auditor's report shall also state:

- (j) such other matters as may be prescribed.

Rule 11 of the Companies (Audit & Auditors) rules, 2014 prescribes three additional matters on which auditor is to state his views and comments.

Additional reporting as prescribed u/s 143(3)(j) read with Rule 11

- (a) whether the company has disclosed the impact, if any, of pending litigations on its financial position in its financial statement;

Additional reporting as prescribed u/s 143(3)(j) read with Rule 11

- (b) whether the company has made provision, as required under any law or accounting standards, for material foreseeable losses, if any, on long term contracts including derivative contracts;

Additional reporting as prescribed u/s 143(3)(j)
read with Rule 11

- (c) whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the company.

SECTION 143(4)

- where any of the matters referred to in this section is answered in the negative or with a qualification, the auditor's report shall state the reason for the answer.

Sec 143(11)

- The Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description, as may be specified in the order, that the auditor's report shall also include a statement on such matters as may be specified therein.
- The CARO,2015.

CARO,2015

- Applicability.
- Matters to be included in the auditor's report.
- Comparative study with CARO,2003.
- Guidance on CARO, 2015 by AASB.

Applicability of CARO,2015

- apply to every company including a foreign company except:
 - a banking company,
 - an insurance company,
 - a section 8 company,
 - OPC,
 - Small company and
 - a specified private limited company.

Applicability of CARO,2015- Small Company

- Sec 2(85) “small company” means a company, other than a public company,—
 - (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; **or**
 - (ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:
- Provided that nothing in this clause shall apply to—
 - (A) a holding company or a subsidiary company;
 - (B) a company registered under section 8; or
 - (C) a company or body corporate governed by any special Act;

Applicability of CARO,2015- Specified Private Company

- a private limited company with
 - a paid up capital and reserves not more than rupees fifty lakh and
 - which does not have loan outstanding exceeding rupees twenty lakh from any bank or financial institution and
 - does not have a turnover exceeding rupees five crore
- at any point of time during the financial year.

Small company Vs Specified Pvt. Ltd.

S. no	Criteria	Small company	Specified Pvt. Ltd.
1	Nature of company	Other than a public co	Private limited company
		Not a holding co	No such condition
		Not a subsidiary co	No such condition
		Not a Section 8 co	No such condition
		Not a co. governed by a special act	No such condition
2	Capital	Paid up capital does not exceed Rs 50 Lakhs	Paid up capital and Reserves do not exceed Rs 50 Lakhs
3	Turnover	Not exceeding Rs 2 crore in the preceding year	Not exceeding Rs 5 crores in that year
4	Loans from bank & financial institution	Not such condition	Does not exceed Rs 25 Lakhs at any time during the year
5	Applicability of criteria	Both of (2) and (4)	All of (2), (3) and (4)

CARO,2015- matters to be included in auditor's report

- 12 clauses as against 21 in CARO,2003.
- All 12 clauses are existing clauses with modifications in some of them.
- Only additional reporting requirement is :
 - (vii)(c)- Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act ,1956 and Rules made thereunder has been transferred to such fund within time.

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- (i)(c) - if a substantial part of fixed assets have been disposed off during the year, whether it has affected the going concern;
- (iii)(e)- secured from companies, firms or other parties covered in the register maintained under section 301 of the Act, if so, give the number or parties and the amount involved in the transactions and
- (f)- whether the rate of interest and other terms and conditions of loans taken by the company, secured or unsecured, are prima facie, prejudicial to the interest of the company and
- (g) whether payment of the principal amount and interest are also regular.

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- (v)(a)- whether the particulars of contracts or arrangements referred to in section 301 of the Act have been entered in the Register required to be maintained under that section and;
- (b) whether transactions made in pursuance of such contracts or arrangements have been made at prices which are reasonable having regard to the prevailing market prices at the relevant time;

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- (vii) in the case of listed companies and/or other companies having a paid-up capital and reserves exceeding Rs.50 lakhs as at the commencement of the financial year concerned, or having an average annual turnover exceeding five crore rupees for a period of three consecutive financial years immediately preceding the financial year concerned, whether the company has an internal audit system commensurate with its size and nature of its business;

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- (xii) whether adequate documents and records are maintained in cases where the company has granted loans and advances on the basis of security by way of pledge of shares, debentures and other securities; If not, the deficiencies to be pointed out.
- (xiii) whether the provisions of any special statute applicable to chit fund have been duly complied with? In respect of nidhi/ mutual benefit fund/societies;

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- (xiv) if the company is dealing or trading in shares, securities, debentures and other investments, whether proper records have been maintained of the transactions and contracts and whether timely entries have been made therein; also whether the shares, securities, debentures and other investments have been held by the company, in its own name except to the extent of the exemption, if any, granted under section 49 of the Act;

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- (xvii) whether the funds raised on short-term basis have been used for long term investment If yes, the nature and amount is to be indicated;
- (xviii) whether the company has made any preferential allotment of shares to parties and companies covered in the Register maintained under section 301 of the Act and if so whether the price at which shares have been issued is prejudicial to the interest of the company;
- (xix) whether securities or charge have been created in respect of debentures issued?
- (xx) whether the management has disclosed on the end use of money raised by public issues and the same has been verified;

CARO,2015 Vs CARO,2003

matters not to be included in auditor's report

- Members are advised to continue to draw in principle guidance from the relevant paragraphs of the Statement on the Companies (Auditor's Report) Order, 2003 issued by ICAI.

Guidance on CARO,2015 by AASB

- (xviii) whether the company has made any preferential allotment of shares to parties and companies covered in the Register maintained under section 301 of the Act and if so whether the price at which shares have been issued is prejudicial to the interest of the company;
- (xix) whether securities have been created in respect of debentures issued?

Clarification issued by AASB in respect of reporting on financial statements for financial year commenced before 31.3.2014 but closed after 31.3.2014

- Sec 227(3)(f) refers to sec 274(1)(g)
- CARO, 2003 refers to –Register maintained under section 301, compliance of section 58A and 58AA in respect of deposits, dealing in securities under section 49 and cost records under section 209. These sections are not applicable w.e.f. 1.4.2014.
- Auditor to report on these points only relating to the period ended 31.3.2014.
- Auditor to report the fact in his Report.

Suggested format for Reporting

- **“Other Matters**
- The Ministry of Corporate Affairs had on 01st April, 2014, *vide* its General Circular No. 07/2014, *Dissemination of Information with Regards to the Provisions of the Companies Act, 2013 as Notified Till date vis a vis Corresponding Provisions of the Companies Act, 1956*, identified such sections of the Companies Act, 1956 that would cease/ continue to have effect from 01st April 2014.
- Accordingly, in terms of the aforesaid Circular, our reporting in respect of section 227(3)(f) of the Companies Act, 1956, and clauses (iii), (v)(a) and (b), (vi), (viii), (xiv), (xviii) of the Companies (Auditor’s Report) Order, 2003 (dealing with sections 49, 58A, 58AA, 209(1)(d) and 301 of the Companies Act, 1956) is only for the period beginning from ie (*date*) till 31st March 2014 since as per the aforementioned MCA Circular these sections have ceased to have effect from 01st April, 2014.”

Sec 143(12) of the CA, 2013

- “Notwithstanding anything contained in this section, if an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed.”

Guidance for such reporting

- Guidance Note on Reporting of Fraud under section 143(12) of the CA, 2013 issued by ICAI.

Sec 143(12) of the CA, 2013

- “Notwithstanding anything contained in this section,

Sec 143(12) of the CA, 2013

- Notwithstanding anything contained in this section, if an auditor of a company...

Sec 143(12) of the CA, 2013

- Branch auditor----- covered.
- Joint auditor----- covered.
- Internal auditor---- not covered.
- Tax auditor---- not covered.

Companies (Audit and Auditors) Rules, 2014

- Rule 13 (5)- The provision of this rule shall also apply, mutatis mutandis, to a cost auditor and a secretarial auditor during the performance of his duties under section 148 and section 204 respectively.

Sec 143(12) of the CA, 2013

- Notwithstanding anything contained in this section ,if an auditor of a company in the course of the performance of his duties as auditor...

SA 240 – The Auditor’s Responsibilities Relating to Fraud in an audit of Financial Statements

- It is designed to assist the auditor in identifying and assessing the risks of material misstatement due to fraud and in designing procedures to detect such misstatement.
- It expands on how the following two SAs are to be applied in relation to risks of material misstatement due to fraud:
 - SA 315- Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.
 - SA 330- The Auditor’s Response to Assessed Risks.
- Implementation Guide to Risk Based Audit of Financial Statements is also available.

in the course of the performance of his duties as auditor...

Attest or non- attest services carried out after
1.4.2014 in the capacity as auditor of the company

- Audit of interim financial statements
- Limited Review/ quarterly financial result audit
- Tax Audit
- Issue of Certificates

Though may not be pursuant to any requirement of the CA, 2013 but shall be construed as being in the course of performing his duties as an auditor.

Applicable date

- Audit commenced after 1.4.2014.
- Audit commenced after 1.4.2014 relating to period after 1.4.2014 only if the offence involving fraud is identified by the auditor to the extent the same was not dealt with in the prior financial years .

Sec 143(12) of the CA, 2013

Notwithstanding anything contained in this section, if an auditor of a company, in the course of the performance of his duties as auditor has reason to believe....

Reason to believe

- Rule -13 specifies the threshold for reporting as 'sufficient reason to believe' and 'knowledge'.

'Reason to believe' and other terms

- **Suspicion-** is a state of mind more than 'speculation' but short of 'knowledge'. It is without sufficient evidence.
- **Reason to believe-** there is sufficient information or convincing evidence to advance beyond suspicion that it is possible someone is committing or has committed a fraud.
- **Sufficient reason to believe-** if on evaluation of all the available information and applying appropriate level of skepticism, the conclusion is drawn that fraud is being or has been committed.

Sec 143(12) of the CA, 2013

- Notwithstanding anything contained in this section ,if an auditor of a company, in the course of the performance of his duties as auditor has reason to believe that an offence involving fraud is being or has been committed against the company...

Scope of the term “Fraud’

- Fraud - is it different from ‘offence involving fraud’ ?
- Will it cover:
 - Bribery
 - Money laundering
or/and
 - Non- compliances with laws.

Offence involving fraud

- Form ADT-4 uses the term ‘suspected offence’ involving fraud.
- SA 340 – Although the auditor may suspect or in rare cases, identify the occurrence of fraud, the auditor does not make legal determination of whether fraud has actually occurred.
- So auditor would not be able to determine whether ‘offence’ or ‘suspected offence’ involving fraud has been or is being committed.
- Harmonious reading shall be ‘... fraud (not offence involving fraud) is being or has been committed against the company...

Fraud- Explanation to Section 447

- “Any act or omission, concealment of the fact or abuse of position committed by any person himself or by other person in connivance in any manner, with intent to deceive, to gain undue advantage from or to injure the interest of the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss.”

Fraud- Explanation to Section 447

- “Any act or omission, concealment of the fact or abuse of position committed by any **person officer or employee** himself or by other person in connivance in any manner, with intent to deceive, to gain undue advantage from or to injure the interest of the company **or its shareholders or its creditors or any other person**, whether or not there is any wrongful gain or wrongful loss.”

Fraud- SA 240- The Auditor's Responsibility Relating to Fraud in an Audit

- “An intentional act by one or more individuals among management, those charged with governance, employees or third parties, involving the use of deception to obtain an unjust or illegal advantage.”

Difference in definitions of 'Fraud'

- SA 240- an intentional act to obtain an unjust or illegal advantage.
- Sec 447- an act, omission, concealment of facts or abuse of position with an intent to deceive, to
 - gain undue advantage from or
 - injure the interest of the company.
- Guidance Note recommends to go as per SA 240 .

Reporting in case of Corruption, Bribery, Money Laundering and Non-compliance with Other laws

- The auditor to examine :
 - Whether such acts have been carried out by officers or employees of the company and
 - Whether such acts have direct effect on the company.
- SA 250- Consideration of Laws and Regulations in an Audit of Financial Statements to be adhere to.
 - Para 28 refers to statutory liability to report.

Concept of Materiality

- SA 240 – one of the objectives
 - To identify and assess the risks of material misstatement in the financial statements due to fraud.
- SA 450- ‘Evaluation of Misstatements Identified During the Audit’ considers the concept of materiality.
- The Companies (Amendment) Bill, 2014- passed by Lok Sabha
 - Provides for reporting to MCA frauds involving specified amount only

Sec 143(12) of the CA, 2013

- Notwithstanding anything contained in this section ,if an auditor of a company, in the course of the performance of his duties as auditor has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company...

Sec 2(59)- Definition of 'Officer'

- “officer” includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act.
- Sec 2(51) “key managerial personnel”, in relation to a company, means—
 - (i) the Chief Executive Officer or the managing director or the manager;
 - (ii) the company secretary;
 - (iii) the whole-time director;
 - (iv) the Chief Financial Officer; and
 - (v) such other officer as may be prescribed (not yet prescribed).

Officer

- Third parties are not covered.
- Whether 'advisors' are covered?

Sec 143(12) of the CA, 2013

- Notwithstanding anything contained in this section ,if an auditor of a company, in the course of the performance of his duties as auditor has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed.

The Companies (Audit and Auditors) Rules, 2014

Rule 13- He shall report the matter to the Central Government immediately but not later than sixty days of his knowledge and after following the procedure indicated in the Rule.

Procedure of reporting in Rule 13

- (i) auditor to forward his report to the Board or the Audit Committee, as the case may be, immediately after he comes to knowledge of the fraud, seeking their reply or observations within forty-five days;
- (ii) on receipt of such reply or observations the auditor shall forward his report and the reply or observations with his comments (on such reply or observations) to the Central Government within fifteen days of receipt of such reply or observations;
- (iii) in case the auditor fails to get any reply or observations within the stipulated period of forty-five days, he shall forward his report to the Central Government along with a note containing the details of his report within the stipulated time .

Procedure of reporting in Rule 13

- (2) The report shall be sent to the Secretary, Ministry of Corporate Affairs in a sealed cover by Registered Post with Acknowledgement Due or by Speed post followed by an e-mail in confirmation of the same.
- (3) The report shall be on the letter-head of the auditor containing postal address, e-mail address and contact number and be signed by the auditor with his seal and shall indicate his Membership Number.
- (4) The report shall be in the form of a statement as specified in Form **ADT-4**.

Reporting on frauds detected by management or other persons and already reported

- Not to be reported again by the auditor., if identified by :
 - The cost auditor
 - Secretarial Auditor
 - Management through Vigil mechanism
- To be reported only if he is the first person to identify/note such fraud in the course of performance of his duty as auditor
- May be required to ensure that proper steps are being taken in that regard.

THANK YOU

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