

Class: B.Com (Hons) Semester III

Subject : BCH 3.1 AUDITING AND CORPORATE GOVERNANCE

12.Topic: DUTIES AND LIABILITIES OF AUDITOR

An auditor, to perform his duties must have certain powers, without which it may not be possible for him to perform his duties honestly and thereby, he might be held liable for any loss which the company might suffer.

Duties:

The duties of a company auditor under Companies Act 2013 may be discussed under the following heads:

1. Make Report: - Section 143 (2) requires the auditor to make a report to the members of the company on the accounts examined by him and on every financial statement which is required to be laid in the general meeting of the company. The Audit report should state that to the best of his information and knowledge, the said accounts and financial statements give a true and fair view of the state of the company's affair as at the end of the financial year and the profit or loss and the cash flow for the year and such other matters as may be prescribed.

Section 143 (3) laid down that auditor's report shall also state other details which are as under:

- (a) Whether he has sought and obtained all the information and explanations which were necessary and if not, the details thereof and the effect of such information on the financial statements.
- (a) Whether, in his opinion, proper books of account as required by law have been kept by the company and proper returns adequate for the purposes of his audit have been received from branches not visited by him. he branch audit report prepared by a person other than the company's auditor has been sent to him.
- (b) Whether the company's balance sheet and profit and loss account dealt with in the report are in agreement with the books of account and returns.
- (c) Whether, in his opinion, the financial statements comply with the accounting standards.
- (d) The observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company.
- (e) Whether any director is disqualified from being appointed as a director under section 164 (2)
- (f) Any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith.
- (g) Whether the company has adequate internal financial controls system

in place and the operating effectiveness of such controls.

2 Auditing Standards: - According to section 143 (9) & (10) every auditor must comply with the auditing standards. While the Central Government prescribes the Auditing Standards or addendums thereto, it shall consult with and take recommendations of the Institute of Chartered Accountants of India (ICAI) and the National Financial Reporting Authority (NFRA). Till such time the Auditing Standards are notified by the Central Government, the auditing standards specified by the ICAI are deemed to be the audit.

3 Fraud Reporting: - Section 143(12) to 143 (15) & Rule 13: - 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.

Section 143 (12) and Rule 13 provides that if the 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 report the matter to the Central Government immediately but not later than 60 days of his knowledge and after following the procedure indicated

herein below:

(i) Auditor shall 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 45 days;

(ii) On receipt of such reply or observations the auditor shall forward his report and the reply or observations of the Board or the Audit Committee along with his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within 15 days of receipt of such reply or observations;

(iii) In case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of 45 days, he shall forward his report to the Central Government along with a note containing the details of his report that was

earlier forwarded to the Board or the Audit Committee for which he failed to receive any reply or observations within the stipulated time.

The provision of section 143 applies mutatis-mutandis to Cost Accountants in practice conducting Cost Audit under section 148 or the Company Secretary in practice conducting secretarial audit under section 204. If any auditor, cost accountant or company secretary in practice fails to comply with the provisions of section 143 (12) for reporting of an offence involving fraud, they will be punished with a fine of minimum Rs. 1 lakh and upto Rs. 25 lakhs but they will not be punished if Auditor done such reporting in good faith.

3. Winding Up: - As per section 305, at the time of voluntary winding up of a company it is a mandatory requirement that auditor should attach the copy of the audits of the company prepared by him.

5. Other Duties: - Besides the above duties, there are other duties of an auditor to be performed in course of his audit. These are:

a) The auditor should give all possible assistance to the inspectors in case of an investigation of the affairs of the company.

b) In case an existing company issues prospectus, it should contain a statement of profit & losses for the last 5 years showing the rate of dividends paid each classes of shares for each year and a statement of

assets & liabilities of the company. It is the duty of auditor to certify all these statements.

Liability of Directors: Directors will have no personal liability so long as they exercise the duties set out earlier in this Article. It should be noted that pursuant to the provisions of Section 149(12) of the new Act a non-executive director including an independent director and nominee directors will be held liable only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through board processes and with his consent or connivance or where he had not acted diligently.

Under Section 195 of the new Act, a director, inter alia, is prohibited from indulging in Insider Trading. There are many provisions in the Act, which are not in line with the Regulations framed in this regard by the Securities and Exchange Board of India, which are applicable to listed companies. Thus in their cases there could be duplications and the requirements of the Act or SEBI Regulations may be stringent. In such situations it would be prudent and in fact is required that listed companies should comply with more stringent requirements of the two so that they are not hauled up for possible violations.

Conclusion: The auditor of a company has statutory power and duties under the companies Act 2013. An auditor is 'watch dog' not a 'blood

hound'. Like a dog should bark and chase when something found wrong. Same like that duty of auditor is to verification and detection, but he must go deep if suspicion arises. His business is to ascertain and state true financial position of the Company as the time of audit, and his duty is confined to that. He should do so by examine the books of the Company.

