

OVERVIEW OF
COMPANIES ACT,2013

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REPORTING OF FRAUD

Explanation to Section 447 defines fraud which means:

- ❖ Any act or omission,
- ❖ Concealment of fact or
- ❖ Abuse of position of any person (by him or herself or by any other person in connivance in any manner).
- ❖ With the **intent to deceive**
- ❖ to gain undue advantage to injure the interest of company, or its shareholders or creditors or any other person (whether or not there is any wrongful gain or loss).

Reporting on Fraud

4

If the auditor of company

- In the performance of his duties as Auditor has reason to believe that an offence involving fraud is being or has been committed against company by officer / employee.

Officer

5

- ❑ Officer includes any director, manager or key managerial person (KMP) or any other person in accordance with whose directions or instruction board of directors / any one or more directors is or are accustomed to act
- ❑ KMP means CEO or MD or manager,
- ❑ Company Secretary,
- ❑ Whole time director,
- ❑ Chief financial officer.

Officer

6

In officer third parties are not covered,
whether advisors are covered?

FRAUD

7

- However, auditor may not be able to detect acts which are not reflected in the books of accounts/
Financial Statements.
- Receiving pay off
- Theft of password of KMP
- carrying on parallel business

Reporting on fraud

8

- | | |
|-----------------------|-------------|
| ➤ Branch Auditor | Covered |
| ➤ Joint Auditor | Covered |
| ➤ Internal Auditor | Not covered |
| ➤ Tax Auditor | Not covered |
| ➤ Cost Auditor | Covered |
| ➤ Secretarial Auditor | Covered |

Reporting on Fraud

9

Attested or not attested services

carried on after 01.04.2015 in the capacity of auditor of the company:-

- ❑ Auditor of interim financial statement.
- ❑ Limited review, quarterly financial audit.
- ❑ Tax audit
- ❑ Issue of certificates

May not be pursuant to any requirement of CA 2013 but shall be construed as being in performing his duty as auditor.

Reporting on Fraud

10

- ❑ **Fraud already detected / reported by Company secretaries or Cost accountants**
- ❑ Not to be reported under 143(12)
- ❑ however if not satisfied with the steps taken by the management auditor need to evaluate case by case.

Reporting on Fraud

11

- **Fraud prior to the notification of Act**
- Yes, if it is not identified in prior F/Y, A/R or D/R under old Act.
- **Non- compliance of law:**
- Fraudulent ITR to evade tax

- ❖ Report to Board seeking reply within 45 days.
- ❖ Auditor has to report above fraud to the C.G. (within 15 days from the receipt of report)
- ❖ If reply not received, Audit shall forward his report to CG within time prescribed (60 days).
- ❖ Report by speed post and e-mail to Ministry of Corporate Affairs.

Punishment for not reporting fraud:

- ❖ Fine Rs. **1lakh to Rs 25 lakh.**

Reporting of Fraud

13

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THANK YOU