# Some relief to auditors, from hanging penalty sword of Rs 25,00,000

**26th March 14**- Sec 143(12) of Company Act 2013 was notified, which created obligation on auditors to report certain frauds to Central Government (Secretary MCA)

As it is a law, materiality limit is not applicable unless specified. So auditor has to report on all frauds irrespective of amount involved, making it very cumbersome to report so many small irregularities. On the other hand MCA was finding it difficult to manage so much communications.

 If auditor fails to report penalty is Minimum Rs 1,00,000 up to Maximum Rs 25,00,000

**5th June 15**- Arun Jaitelyji announced that only fraud above certain limit should be communicated.

**14th Dec 15**- MCA announced Amendment to the Companies (Audit and Auditors) Rules, 2014

**Reporting of frauds by auditor involving amount 1 crore or more**

1. The auditor should report the fraud, first of all, to the Board or the Audit Committee, as the case may be, within 2 days of his knowledge of the fraud, seeking their reply or observations within 45 days. Earlier, the auditor had to report to the Board or Audit Committee immediately.

2. Within 15 days of receipt of reply or observations of the Board or Audit Committee, the auditor shall send his report and his comments on such reply or observations along with such reply or observations to the central government. Total Time Limit (2+45+15= 62 Days)

3. On non-receipt of reply or observations from the Board or Audit Committee within stipulated time of 45 days, the auditor shall send his report along with details of the report that was sent to the Board or Audit Committee for which he has not received any reply. Same provision was there in old Rule.

4. As in case of old Rule, the auditor should send his report along with other documents, as the case may be, to the Secretary, Ministry of Corporate Affairs in a sealed cover by Registered Post with Acknowledgement Due or by Speed post. It should be followed by an e-mail in confirmation of the sending.

5. The auditor should prepare report in the format of Form ADT-4 and send that report on his letterheadsigned by the auditor with his seal and shall indicate Membership Number of the auditor. The letterhead should contain postal address, e-mail address and contact number. There is no change vis-a-vis old Rule.

**Reporting of frauds by auditor involving amount less than Rs. 1 crore**

The auditor shall report the matter of fraud to the Audit Committee or to the Board within 2 days of his knowledge of the fraud.

The Board shall disclose in its report (Board's Report) the nature of fraud with description, approximate amount of the fraud, parties involved in the fraud and remedial action taken. Name of parties should be disclosed only when the Board or Audit Committee has not taken any remedial action against the fraud. There were no such provisions in the old rule.

Also apply, mutatis mutandis, to a Cost Auditor and a Secretarial Auditor. Imposing a limit in terms of amount on reporting of fraud to the central government will reduce burden of the auditors as well as the Ministry of Corporate Affairs. The amendment has brought more clarity on reporting format, particulars to be reported and the manner of reporting.

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