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CONTENTS

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STATEMENT OF THE PROBLEM
OBJECTIVES
HYPOTHESIS (ES)
RESEARCH METHODOLOGY
RESULTS & DISCUSSION
FINDINGS
RECOMMENDATIONS/SUGGESTIONS
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COMPARISON BETWEEN THE DUTIES AND RESPONSIBILITIES OF AUDITORS IN COMPANIES ACT OF 1956 & 2013

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ABSTRACT

The Companies Act of 1956 is enforced from 1st April 1956. It also extends to the whole India except Jammu & Kashmir. This act complies the special legislation which enabled companies to form by registration. This act is administered by the government of India through the Ministry of Corporate Affairs & the office of registrar of companies, official legislation. To replace this, act the Companies act 2013 enacted on 29th August 2013 on accordance of Honorable President assent as a potential to be a historical milestone has it aims to improve Corporate Governance. Our research paper highlights the study of Auditors, procedures of their appointments, duties, responsibilities, eligibility, removal, retirements, benefits, comparative analysis of auditors in respect of company's act of 1956 & 2013.

KEYWORDS

company auditors, company act.

JEL CODES

M42, H83.

INTRODUCTION

The Companies act of 2013 is divided into 29 chapters containing 470 sections in it as against 658 sections in the companies' act of 1956. The central government has appointed it on Thursday 12th September 2013 as the date on which some notified sections of the companies' act of 2013 shall come into force.

The new law has been passed & is considered as trend changes in Indian corporate law; the new law has been rewritten extensively with several new provisions for investor's protection, between corporate governance and corporate social responsibilities. It has also streamlined procedures relating to disclosure of transactions with parties related to directors, promoters and auditors etc.

OBJECTIVES OF THE STUDY

1. To study the Implications of New Companies Act
2. To study the Highlighted Features of New Companies Act
3. To study the Duties and Responsibilities of Auditors according to the post & prior Companies Act
4. To study the Procedures of appointment, removal and retirement of Auditors in post & prior Companies Act.

RESEARCH METHODOLOGY

The Methodology is based on using primary sources to accumulate the information through preparing questionnaire presented to auditors, face to face approach & assistance of auditors and the secondary sources from reference books (CA books), magazines, internet and journals.

COMPARISON OF OLD COMPANIES ACT & NEW COMPANIES ACT

1. The 1956 act and (ICAI) Institute of Chartered Accountants of India restricts the number of companies in which a person or firm can be appointed as Auditors.
2. Every Audit committee consists under sub-section (1) shall act in accordance with terms of reference to specified in writing by the board.
3. The annual report of the company shall disclose the companies to the audit committee.
4. In 2013 every committee of companies existing immediately before the commencement of this act shall be reconstituted within one year.
5. The audit committee shall consist of a minimum of 3 directors with independent directors forming a majority.

HIGHLIGHTED FEATURES OF NEW COMPANIES ACT

1. The Companies act 2013 is divided into 29 chapters containing 470 clauses as against 658 sections in the Companies act 1956.
2. 5 years tenure for Auditors appointed at AGM of the company instead of annual appointment.
3. The uniform financial year for all the companies that is from 1st April to 31st March.
4. Scope of Auditors in Non – Audit services is reduced.
5. Role & responsibilities is redefined in internal audit.
6. The four pillars of the New companies act are Governance, Mergers and restructuring, Financial statements & auditing and other provisions.
7. Audit report is mandatory in the preparation of financial statements.
8. Transferring of a fixed percentage of profits to reserve before declaration of dividend is not mandatory in this act.
9. National Advisory Committee on Accounting Standards (NACAS) will be replaced by the National Financial Reporting Authority (NFRA).
10. Mandatory Internal Audit for prescribed clause of companies.

IMPLICATIONS OF NEW COMPANIES ACT

1. An individual cannot be appointed as auditors for more than 30 companies.
2. An individual appointed for 10 companies with a paid-up share capital of Rs.25lakhs.
3. The 2013 act does not provide any restrictions based on nature or size of the companies.
4. Now private companies will also be considered for calculating the limit of 20 Auditors per partners.
5. The act restricts the number of Auditors to 20 companies for an individual or partner.

DUTIES AND RESPONSIBILITIES OF AUDITORS

Section 143 Companies act of 2013 provides the duties and responsibilities of the Auditors. In the Auditors report on the financial statement the existing reporting should be according to financial transactions and the functioning of that company.

According to section 143 the statutory auditor who is not to conduct the audit service of the branch members then the board of directors can appoint the auditors such auditors appointed are called branch auditors. These branch auditors can attend the AGM and should be appointed only for the consecutive period of 5 years.

The duties & responsibilities can be further treated as,

1. Collect and analyze data to detect deficient controls, duplicated efforts, extravagance, fraud or noncompliance with laws, regulations & management policies.
2. Report to management about asset utilization and audit results, and recommend changes in operations and financial activities.
3. Prepare detailed reports on audit findings.
4. Review data about material assets, net worth, liabilities, capital stock, surplus, income and expenditures.
5. Inspect account books & accounting system for efficiency, effectiveness and use of accepted accounting procedures to record transactions.
6. Examine & evaluate financial and information systems, recommending controls to ensure system reliability and data integrity.

NON – AUDIT SERVICES

The Auditors should render independent audit opinions & services to the company which is approved by the board of directors or the audit committee. They are not supposed to provide any non – audit services/any other services directly or indirectly such as,

a. Accounting and book keeping services
b. Actuarial services
c. Investment banking services
d. Management services
e. Investment advisory services
f. Rendering of outsource financial services and
g. Any other kind of services.

PROCEDURE FOR APPOINTMENT OF AUDITORS

According to companies act the Board of Directors will prepare a panel of auditors, to give consent letter to the company. The board selects the auditors within 30 days after the incorporation of the company. Auditor can accept or reject the proposal of the board, so accepted auditors are appointed for 5 years concluding for the 6th AGM.

This type of appointment is in the Companies act of 2013maccording to this the appointment of Auditors for the block of 5 years because of accountability and business understanding.

An auditor can work or function in one or more companied without any restrictions it depends upon those companies but they can work up to 5 years it is rectified by the members every year in the AGM during the period of 5 years.

❖ **AUDITORS**

Qualified statutory Chartered Accountants Cost accountants or any other professionals as decided by the board.

❖ **COST AUDITORS**

Qualified Cost accountants as defined in clause B of sub section (1) & (2) of cost and works accountant act of 1959.

According to Companies Act 2013 the appointment of cost auditors by board of directors of companies engaged in the business of manufacture of goods as may be notified by the government. The appointment of reporting procedure of the cost auditor is similar to the existing procedure.

❖ **INTERNAL & EXTERNAL AUDITORS**

The Internal Auditors are those auditors who are functioning within the company and the external auditors are those auditors who provide audit services to a company from other companies. They are appointed by the board of directors; these auditors cannot render both the services together only internal or external service should be rendered by the auditors to the company.

ROTATION OF AUDITORS

According to the new Companies act the rotation of the auditors has been introduced. In the previous act rotation of auditors was not there. An auditor who is working or functioning for the company will be in the company until his removal or retirement. But the new act changed the provisions according to the legal restrictions of the board such as,

a. In case of listed company if the auditor is an individual, he cannot be the auditor of such company for more than 5 consecutive years.
b. In case of a firm an auditor cannot be auditor of a company for more than 2 terms of 5 consecutive years.
c. If the auditor is an auditor for a company for 1 term of 5 years he cannot be reappointed by that company for the next 5 years.

Rotation also implies the branch auditor they are the auditors who are appointed by the company only for the 5 consecutive years and not for the next 5/10 years because of the legal restrictions of the companies act.

REMOVAL OF AUDITORS

According to the companies act the removal or the resignation of the auditors is followed by the procedure prescribed by the rules of companies act under this new act an auditor cannot be removed from his office before the expiry of his term. After obtaining the previous approval of the central government through passing the special resolutions by the members,

a. If he resigns he should file within 30 days by a statement in the prescribed form with the company and ROC (registrar of companies) has no longer he is appointed as the auditor he is not ready to work anymore with relevant reason of resignation.

   If he fails to say the reason then he is punishable with a minimum fine of Rs 50,000/- sometimes which may extend up to Rs 5,00,000/-.
b. The company can punish the auditor for his misbehavior, negligence or any wrong reporting and misconduct and also for not signing the audit report, remuneration dispute, for giving wrong concern for appointment for these fraudulent activities the central government will provide an application to the tribunal, the tribunal within 15 days they pass an order that the auditor shall not function as auditor and the central government can appoint another auditor, such auditors who are removed by the tribunal cannot be appointed as auditor of the company for 5 years.
c. The auditors will be punishable by the disciplinary committee for their misconduct and negligence, punishment from ROC for their fraudulent activities like not signing the audit report, wrong concern for appointment. Sometimes there may be civil or criminal case against him depending the fraud in the disciplinary committee of ICAI (Institute of Chartered Accountants of India) and the fraud involves the minimum period of imprisonment for 3 years which may extend to 10 years.

CONCLUSION

We opine that the Companies Act 2013 provides an opportunity to make our corporate regulations more contemporary and potentially it makes our corporate and auditors to enhance the business regulations without any restrictions, it is expected to facilitate with the business and new provisions for the protection of investors with corporate governance.

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Looking forward to an appropriate consideration.

With sincere regards

Thanking you profoundly

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