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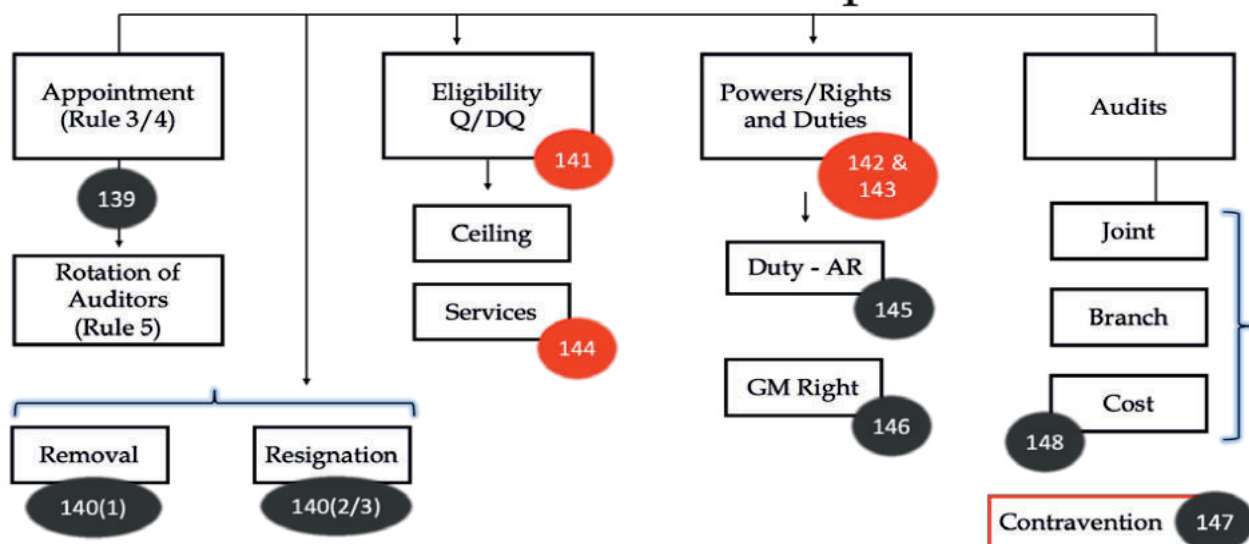
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Chapter X

Audit and Auditors

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Overview of the Chapter



ELIGIBILITY, QUALIFICATION & DISQUALIFICATION OF AUDITORS - Section 141

Qualifications 141(1) & (2)	<p>1) A person shall be eligible for appointment as an auditor of a company only if he is a Practising Chartered Accountant.</p> <p>2) It may be noted that a firm whereof majority of partners practicing in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of a company.</p> <p>3) Where a firm including a Limited Liability Partnership is appointed as an auditor of a company, only the partners who are Chartered Accountants shall be authorized to act & sign on behalf of the firm.</p>						
Disqualifications 141(3)	<p>The following persons shall not be eligible for appointment as an auditor of a company, namely: -</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; vertical-align: top; padding: 5px;">(a)</td> <td style="padding: 5px;">a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;</td> </tr> <tr> <td style="vertical-align: top; padding: 5px;">(b)</td> <td style="padding: 5px;"> an officer or employee of the company; According to Section 2(59) of the Companies Act, 2013, the term 'Officer' includes: <ol style="list-style-type: none"> i. Director ii. Manager iii. Key Managerial Personnel iv. Shadow Directors </td> </tr> <tr> <td style="vertical-align: top; padding: 5px;">(c)</td> <td style="padding: 5px;"> a person who is a partner, or who is in the employment, of an officer or employee of the company; </td> </tr> </table> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="background-color: #4CAF50; color: white; padding: 5px; border: 1px solid black;">(a) & (b) : BC - LLP and O/E</div> <div style="background-color: #4CAF50; color: white; padding: 5px; border: 1px solid black;">(c) : Partner/Employee of Off/Ee</div> <div style="border: 1px solid black; padding: 5px; background-color: #e0e0e0;"> <ul style="list-style-type: none"> Body Corporate - Except LLP Officer/Employee Partner (Partner/employee) of Off/Ee </div> </div>	(a)	a body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008;	(b)	an officer or employee of the company; According to Section 2(59) of the Companies Act, 2013, the term 'Officer' includes: <ol style="list-style-type: none"> i. Director ii. Manager iii. Key Managerial Personnel iv. Shadow Directors 	(c)	a person who is a partner, or who is in the employment, of an officer or employee of the company;
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(b)	an officer or employee of the company; According to Section 2(59) of the Companies Act, 2013, the term 'Officer' includes: <ol style="list-style-type: none"> i. Director ii. Manager iii. Key Managerial Personnel iv. Shadow Directors 						
(c)	a person who is a partner, or who is in the employment, of an officer or employee of the company;						
(d)	A person who, or his relative or partner —						

		<p>i. Is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company.</p> <ul style="list-style-type: none"> ✓ It may be noted that the relative may hold security or interest in the company of face value not exceeding 1 lakh. ✓ It may be noted that in the event of acquiring any security or interest by a relative, above the threshold prescribed, the corrective action to maintain the limits as specified above shall be taken by the auditor within 60 days of such acquisition or interest. ✓ The value of shares of 1,00,000 that can be held by relative is the face value not the market value. ✓ The limit of 1,00,000 would be applicable where the securities are held by the relative of an auditor & not where the securities are held by an auditor himself or his partner. In case of an auditor or his partner, securities of even small value shall be a disqualification. ✓ The term "relative", as defined under the Companies Act, 2013, means anyone who is related to another as member of a Hindu Undivided Family; husband & wife; Father (including step- father), Mother (including step-mother), Son (including step- son), Son's wife, Daughter, Daughter's husband, Brother (including step- brother), Sister (including step-sister). <p>ii. Is indebted to the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company, in excess of Rs 5 lakh; or</p> <p>iii. Has given a guarantee or provided any security in connection with the indebtedness of any third person to the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company, in excess of '1 lakh.</p>
	(e)	<p>a person or a firm who, whether directly or indirectly has business relationship with the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company or associate company, of such nature as may be prescribed;</p>

		<p>The term "business relationship" shall be construed as any transaction entered into for a commercial purpose, except —</p> <p>i. Commercial transactions which are in the nature of</p>
		<p>professional services permitted to be rendered by an auditor or audit firm under the Act & the CA Act, 1949 & the rules or the regulations made under those Acts;</p> <p>ii. Commercial transactions which are in the ordinary course of business of the company at arm's length price - like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications. airlines, hospitals, hotels & such other similar businesses.</p>
	(f)	<p>person whose relative is a :-</p> <ul style="list-style-type: none"> • Director (Non-Executive Director) or • is in the employment of the company as a Director (Executive Director) or Key Managerial Personnel [KMP].
	(g)	<p>Person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such person or partner is at the date of such appointment or reappointment holding appointment as auditor of more than 20 companies; other than one person companies, dormant companies, small companies & private companies] having paid-up share capital less than r100 crores;</p>
		<p>Note:</p> <ol style="list-style-type: none"> 1) The Limit is only for "Company" client. There is no Limit for audit of other forms of business enterprises like Trust, Society, Co-operative Society, HUF, LLP, Partnership, Proprietorship, etc. 2) The Limit is only for "Statutory audit of FS". There is no Limit for other types of services rendered by CA like Internal audit, Taxation, Advisory Services, etc. 3) Limit on Tax Audits = 60 Assesseees. 4) Branch Audit <ul style="list-style-type: none"> • Branch Audit (whether 1 branch or many branches) of a Company even though not doing audit of main company is counted as 1 Audit in the ceiling limit of 20. • Principal Audit (including branch audit) of a Company is counted only as 1 Audit in the limit of 20.

	(h)	A person who has been convicted by a Court of an offence involving fraud & a period of 10 years has not elapsed from the date of such conviction;
	(i)	a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.
Refer the concept clarity sheet at the end of the chapter on Disqualifications		

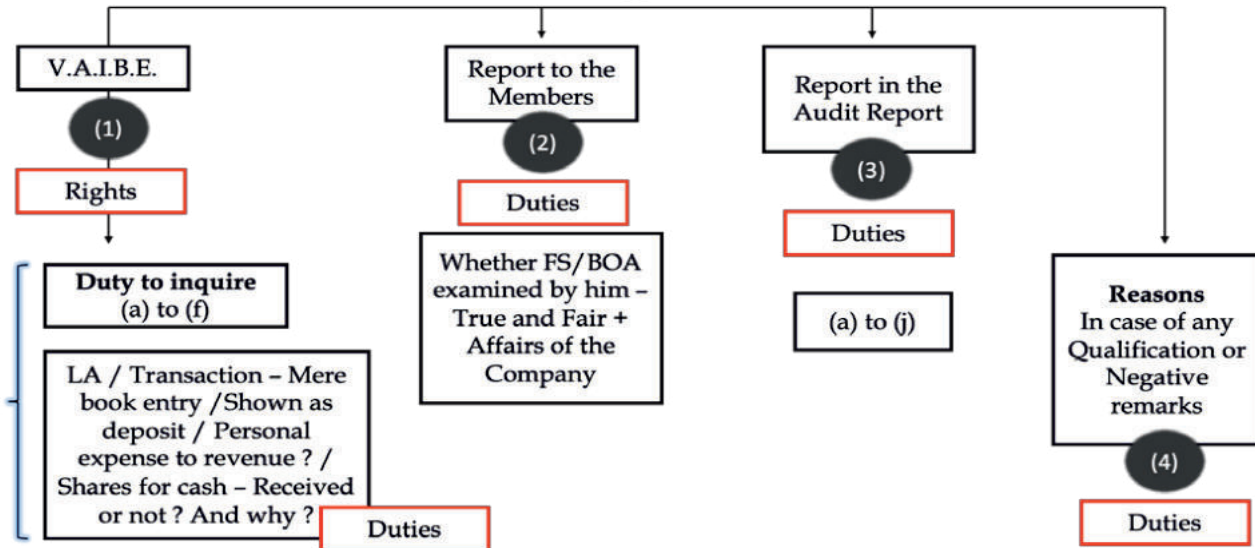
AUDITOR NOT TO RENDER CERTAIN SERVICES [Section 144]

<p>AUDITOR NOT TO RENDER CERTAIN SERVICES [SEC 144]</p> <p style="text-align: center;">I Manage my Investments myself Never outsource them Keep them internal Actual - Design Maintain Books/Accounts</p>	<p>Section 144 of the Companies Act, 2013 prescribes certain services not to be rendered by the auditor. An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company), namely:</p> <ol style="list-style-type: none"> 1) Accounting & book keeping services; 2) Carrying out of outsourced financial services 3) Actuarial services*; 4) Design & implementation of any financial information system; 5) Engaged in Investment advisory services or Investment banking services 6) Internal audit; 7) Management services; & 8) Any other kind of services as may be prescribed.
<p>141(4)</p>	<p>Where a person appointed as an auditor of a company incurs any of the above disqualifications after his appointment, he shall vacate his office as such auditor & such vacation shall be deemed to be a casual vacancy in the office of the auditor</p>

1. Which of the following is qualified to be appointed as auditor of the company?
 - a. A person whose relative is holding security of the company of face value exceeding 1 Lac
 - b. A person whose relative is holding security of the company of market value exceeding 1 Lac
 - c. A person whose relative is holding security of the company of face value not exceeding 1 Lac
 - d. A person whose relative is holding security of the company of market value not exceeding 1 Lac
2. A person is disqualified to be appointed as auditor of the company if he himself or his relative or partner is indebted to the company for an amount exceeding
 - a. One Lac
 - b. Two Lacs
 - c. Five Lacs
 - d. Ten Lacs
3. A person is disqualified to be appointed as auditor of the company if he himself or his relative or partner has given any guarantee in connection with the indebtedness of any third person to the company for an amount exceeding
 - a. One Lac
 - b. Two Lacs
 - c. Five Lacs
 - d. Ten Lacs
4. A person is disqualified to be appointed as auditor of a company if he has been convicted by a court of an offence involving fraud and a period of _____ years has not elapsed from the date of such conviction
 - a. 2 Years
 - b. 5 Years
 - c. 7 Years
 - d. 10 Years
5. A person is disqualified to be appointed as auditor of a company if such person as at date of such _____ appointment holding _____ appointment of more than _____ companies
 - a. 10
 - b. 15
 - c. 20
 - d. 30

POWER & RIGHTS OF AUDITORS [Sec 143]

Section 143 – Rights and Duties



<p>V.A.I.B.E. Record (S.A.B)</p>	<p>↔</p>	<p>Vouchers, Accounts, Information, Books and Explanation</p>
<p>Right of Access to Books of Account, etc.</p>	<ul style="list-style-type: none"> ➤ The auditor of a company, at all times, shall have a right of access to the books of account & vouchers of the company, whether kept at the registered office of the company or at any other place. ➤ The auditor of a holding company shall also have the right of access to the records of all its subsidiaries & associate companies in so far as it relates to the consolidation of its FS. 	
<p>Right to obtain Information Explanation from Officers</p>	<ul style="list-style-type: none"> ➤ This right of the auditor allows him to obtain from the officers of the company such information & explanations as he may think necessary for the performance of his duties as auditor is a wide & important power. 	

RIGHT TO REPORT TO THE MEMBERS & SIGN AUDIT REPORT (Sec 145)

- The auditor shall make a report to the members of the company on the accounts examined by him & on every FS which are required by or under this Act to be laid before the company in general meeting.
- The person [**Signing Partner**] appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company.
- The qualifications, observations or comments on financial transactions or matters, which have any **adverse effect on the functioning of the company** mentioned in the auditor's report shall be **READ** before the company in general meeting and shall be open to inspection by any member of the company.

RIGHT TO RECEIVE NOTICE & ATTEND GENERAL MEETING (Sec 146)

- All notices of, & other communications relating to, any general meeting shall be forwarded to the auditor of the company, & the auditor shall, unless otherwise exempted by the company, **attend either by himself or through his authorized representative**, who shall also be qualified to be an auditor, any general meeting & shall have right to be heard at such meeting on any part of the business which concerns him as the auditor.

RIGHT TO LIEN

- In terms of the general principles of law, any person having the lawful possession of somebody else's property, on which he has worked, may retain the property for nonpayment of his dues on account of the work done on the property.
- On this premise, auditor can exercise lien on books & documents placed at his possession by the client for nonpayment of fees, for work done on the books & documents.
- **following conditions:**
 - ✓ Documents retained must belong to the client who owes the money.
 - ✓ Documents must have come into possession of the auditor on the authority of the client. They must not have been received through irregular or illegal means. In case of a company client, they must be received on the authority of the Board of Directors.
 - ✓ The auditor can retain the documents only if he has done work on the documents assigned to him.
 - ✓ Such of the documents can be retained which are connected with the work on **which** fees have not **been** paid and some work has been done

1. The auditor shall make a report to the members of the company on the accounts examined by him. Explain with reference to relevant provisions of the Companies Act, 2013.

OR

DUTIES OF AUDITORS (Sec 143)

Refer the concept clarity sheet at the end of the chapter on Duties of an Auditor

Duty of Auditor to Inquire on Certain Matters [Sec 143(1)]

➤ **amongst other matters inquire into the following matters, namely: —**

Security	(a) Whether loans & advances made by the company on the basis of security have been properly secured & whether the terms on which they have been made are prejudicial to the interests of the company or its members;
Book Entries	(b) Whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;
Sale of Securities below cost	(c) Where the company not being an investment company or a banking company, whether so much of the assets of the company as consist of shares, debentures & other securities have been sold at a price less than that at which they were purchased by the company;
Deposits	(d) Whether loans & advances made by the company have been shown as deposits;
Personal Expenses	(e) Whether personal expenses have been charged to revenue account;
Shares Allotted for Cash & Balance Sheet Position	(f) Where it is stated in the books & documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, & if no cash has actually been so received, whether the position as stated in the account books & the balance sheet is correct, regular & not misleading.

1. Explain the duties of Auditor to inquire u/s 143(1) of the Companies Act, 2013.

OR

AUDITOR'S REMUNERATION (Sec 142)

[SEC 142(1)]	<p>➤ those who appoint auditor fixes his remuneration except In case of a Government company,</p> <p>➤ Auditor is appointed by C&AG but remuneration is fixed by shareholders.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Sum Includes :</p> <ul style="list-style-type: none"> • Audit fees • Reimbursement of expenses incurred by auditor in relation to audit • Any facilities extended to the auditor but <p>Shall not include :</p> <ul style="list-style-type: none"> • Any other services rendered by the auditor </div>
[SEC 142(2)]	<p>Items includible and excludible in "Auditor's remuneration"</p> <p>Auditor's remuneration includes "Out of Pocket Expenses" but does NOT include any remuneration paid to him for any other service rendered by him at the request of the company.</p>

1. The remuneration of first auditor appointed by members of the company shall be fixed by

- (a) Company
- (b) Board of Directors
- (c) Central Government
- (d) CAG

2. Which of the following is correct?

- (a) Remuneration of auditor shall in addition to the fees payable

include expenses, if any incurred by the auditor in connection with the audit of the company

- (b) Remuneration does not include any remuneration paid to auditor for any other service rendered by him at the request of the company
- (c) Both of the Above
- (d) None of the Above

For section 143(1) it could be said that the auditor should make a report to the members in case he finds answer to any of these matters in adverse.

Duty to Report Matters in the Report [Sec 143(3)]

143(3)

Duty to Report to members on Principal assertions

To report on FACTS basis	To report on OPINION basis
All info and explanation obtained ?	Proper BOA maintained ?
FS in agree with BOA ?	FS as per AS ?
Branch AR ?	Observation and comment of auditor which have any adverse effect on company
Any director DQ u/s 164 (2)?	Any adverse remark or qualification
Other matters prescribed	Adequate IFC <i>related to FS</i> and effective ?

The auditor's **report** shall also state —

Information & Explanations	a) Whether he has sought & obtained all the information & explanations which to the best of his knowledge & belief were necessary for the purpose of his audit & if not, the details thereof & the effect of such information on the FS;
Proper Books of Account	b) Whether, in his opinion, proper books of account as required by law have been kept by the company so far as appears from his examination of those books & proper returns adequate for the purposes of his audit have been received from branches not visited by him;
Branch Auditor's Report	c) Whether the report on the accounts of any branch office of the company audited u/s 143(8) by a person other than the company's auditor has been sent to him under the proviso to that sub-section & the manner in which he has dealt with it in preparing his report;
Agreement with Books of Account	d) Whether the company's balance sheet & profit & loss account dealt with in the report are in agreement with the books of account & returns;
Accounting Standards	e) Whether, in his opinion, the FS comply with the accounting standards;

Adverse effect	f) The observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;
Director's Disqualification	g) Whether any director is disqualified from being appointed as a director u/s 164(2);
Maintenance of accounts	h) Any qualification, reservation or adverse remark relating to the maintenance of accounts & other matters connected therewith;
internal Financial Controls	i) Whether the company has adequate internal financial controls with reference to FS in place & the operating effectiveness of such controls;
	<p>Section 143(3)(i), shall not apply to a private company: - which is a</p> <p>a) one person company or a small company; or</p> <p>b) which has turnover less than Rs 50 crores as per latest audited FS & which has aggregate borrowings from banks or financial institutions or anybody corporate at any point of time during the F.Y less than Z 25 crores."</p> <p>The above exemption shall be applicable to a private company which has not committed a default in filing its FS or annual return with the Registrar.</p>
Other matters.	<p>Such other matters as may be prescribed-</p> <p>a) Whether the company has disclosed the impact, if any, of pending litigations on its financial position in its financial statement;</p> <p>b) Whether the company has made provision, as required under any law or AS, for material foreseeable losses, if any, on long term contracts including derivative contracts;</p> <p>c) Whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education & Protection Fund by the company,</p> <p>d) *clause omitted</p> <p>i. Whether the management has represented that, to the best of its knowledge & belief, other than as disclosed in the notes to the accounts, no funds have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the company to or in any other person(s) or entity(ies), including foreign entities</p>

	<p>(Intermediaries"), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;</p> <p>ii. Whether the management has represented, that, to the best of its knowledge & belief, other than as disclosed in the notes to the accounts, no funds have been received by the company from any person(s) or entity(ies), including foreign entities ("Funding Parties"), with the understanding, whether recorded in writing or otherwise, that the company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries; &</p>
	<p>iii. Based on such audit procedures that the auditor has considered reasonable & appropriate in the circumstances, nothing has come to their notice that has caused them to believe that the representations under sub-clause (i) & (ii) contain any material misstatement.</p> <p>e) Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013.</p> <p>f) Whether the company has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility & the same has, been operated throughout the year for all transactions recorded in the software & the audit trail feature has not been tampered with & the audit trail has been preserved by the company as per the statutory requirements for record retention.</p>
<p>Managerial Remuneration</p>	<p>The auditor of the company shall, in his report u/s 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section & give such other details as may be prescribed" (as per section 197(16) of the Companies Act, 2013)</p> <p>u- The aforesaid reporting requirement for auditors of public companies needs to be covered in auditor's report under the Section "Report on Other Legal & Regulatory Requirements".</p>

Summary - Other Matter to Be Reported		
(i)	Pending Litigations	Whether the company has disclosed the impact of pending litigations on its financial position in the financial statements.
(ii)	Provision for Losses	Whether provisions have been made for material foreseeable losses on long-term contracts, including derivative contracts, as required under laws or accounting standards.
(iii)	Investor Education and Protection Fund	Whether there has been any delay in transferring amounts to the Investor Education and Protection Fund.
(iv)	Funds Advanced/Received	<p>Representations by management about:</p> <ol style="list-style-type: none"> 1.No funds have been advanced, loaned, or invested (directly or indirectly) for the benefit of “Ultimate Beneficiaries.” 2.No funds received from any “Funding Parties” have been used for the benefit of “Ultimate Beneficiaries.” 3.No material misstatement has been identified
(v)	Dividend Compliance	Whether the dividend declared or paid complies with Section 123 of the Companies Act, 2013.
(vi)	Audit Trail Software	Whether the company has used accounting software with an audit trail feature (effective from April 1, 2022), ensuring the audit trail has been operated, preserved, and not tampered with as per statutory requirements.

Section 143(4)	<p>Reasons for Modification</p> <p>Where any of the matters required to be included in the audit report under this section is answered in the negative or with a qualification, the report shall state the reasons therefor.</p>
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AUDIT OF GOVERNMENT COMPANY - Section 143(5)(6)(7)

Section 143(5)	The auditor appointed by C & AG shall submit a copy of the audit report to the Comptroller and Auditor-General of India which shall include the directions, if any, issued by the C & AG, the action taken thereon and its impact on the accounts and financial statement of the company.
Section 143(6)	<p>Rights of C & AG to conduct supplementary audit and comment upon Audit report</p> <p>The C & AG shall within 60 days from the date of receipt of the audit report have a right to—</p> <ol style="list-style-type: none"> a. Conduct a supplementary audit of the financial statement of the company by such person or persons as he may authorize in this behalf; and b. Comment upon or supplement such audit report: <p>Any comments given by the C & AG upon the audit report shall be sent by the company to every person entitled to copies of audited financial statements and also be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.</p>
Section 143(7)	Without prejudice to the provisions of this Chapter, the Comptroller and Auditor-General of India may, in case of any company covered under subsection (5) or subsection (7) of section 139, if he considers necessary, by an order, cause test audit to be conducted of the accounts of such company and the provisions of section 19A of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, shall apply to the report of such test audit.

Summary for Audit of Government Company – Sections 143(5)(6)(7)

Powers of CAG	1. Appointment of Auditor: CAG appoints the Auditor
	2. Direction to Auditor: CAG directs the manner of audit
	3. Audit Report Submission by Auditor includes:
	- Directions issued by CAG.
	- Actions taken thereon.
	- Impact on accounts and financial statements.

Comment and Supplementary Audit	Supplementary Audit: CAG can conduct a supplementary audit within 60 days of receiving the audit report by authorizing persons for additional info
	CAG can Comment or Supplement on report
	Communication: Comments or supplements must be sent:
	- To persons entitled to audited financial statements under Section 136(1).
	- Presented in the AGM alongside the audit report.
Test Audit	CAG's Authority to Test audit of the accounts of the government company.
	Application of Law: Provisions of Section 19A of the CAG Act, 1971

BRANCH AUDIT - Section 143(8)

Section 143(8)	<p>Branch Audit</p> <p>Where a company has a branch office, the accounts of that office shall be audited by:-</p> <ol style="list-style-type: none"> 1. The auditor appointed for the company (company's auditor) or 2. Any other person qualified for appointment as an auditor of the company and appointed as such under section 139, or 3. Where the branch office is situated in a country outside India, the accounts of the branch office shall be audited by <ol style="list-style-type: none"> a. The company's auditor or b. An accountant or by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country. 4. Provided that the branch auditor shall prepare a report on the accounts of the branch examined by him and send it to the auditor of the company who shall deal with it in his report in such manner as he considers necessary.
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<p>1. ABC Ltd is a company incorporated in India. It has branches within & outside India. Explain who can be appointed as an auditor of these branches within & outside India. Also explain to whom branch auditor is required to report. (RTP May 2020)</p> <p>2. RJ Limited is in the business of trading of cycles having Head Office at Delhi & branch at Mumbai. Statutory audit of Head Office was to be done by CA D & statutory audit of branch at Mumbai was to be done by CA M. During the course of audit by CA D at head office, CA D Wanted to visit branch at Mumbai & verify the inventory records at Mumbai. The management of RJ Limited did not allow CA D to visit Mumbai office & verify the inventory records as the branch audit of Mumbai was already being undertaken by another CA M. In the above situation, discuss the rights available with CA D in terms of the Companies Act, 2013.(3 Marks Nov 2020)</p>	
<p>Section 143(9)(10)</p>	<p>Duty of Auditor to follow Auditing Standards</p> <p>Every auditor shall comply with the auditing standards.</p> <p>The CG may prescribe the standards of auditing, as recommended by the Institute of Chartered Accountants of India in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.</p> <p>Until any auditing standards are notified, any standard or standards of auditing specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing standards.</p>
<p>Section 143(11)</p>	<p>CARO 2020</p> <p>CARO 2020 is a part of the Audit REPORT Chapter in Audit Subject. It is not a part of LAW Subject.</p>

DUTY OF THE AUDITOR TO REPORT FRAUD TO CG - Sec 143(12)

<p>Section 143(12) and rules</p>	<p>Reporting of frauds by auditor and other matters:</p> <p>1) If an auditor of a company, in the course of the performance of his duties as statutory auditor, has reason to believe that an offence of fraud, which involves or is expected to involve individually an Amount of 1 crore or more, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the CG.</p> <p>Note:</p> <p>If Auditor himself discovers the fraud, then he has a duty to report to CG.</p> <p>If the management informs the Auditor about the fraud, then there is no duty to report to CG.</p>
	<p>2) The auditor shall report the matter to the CG as under:</p> <p>a) The auditor shall report the matter to the Board or the Audit Committee, as the case may be, immediately but not later than 2 days of his knowledge of the fraud, seeking their reply or observations within 45 days;</p> <p>b) 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 CG within 15 days from the date of receipt of such reply or observations;</p> <p>c) 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 CG along with a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he has not received any reply or observations;</p> <p>d) 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;</p> <p>e) The report shall be in the form of a statement as specified in Form ADT-4.</p> <p>3) The following details of each of the fraud reported to the Audit Committee or the Board above during the year shall be disclosed in the Board's Report:</p> <p>a) Nature of Fraud with description;</p>

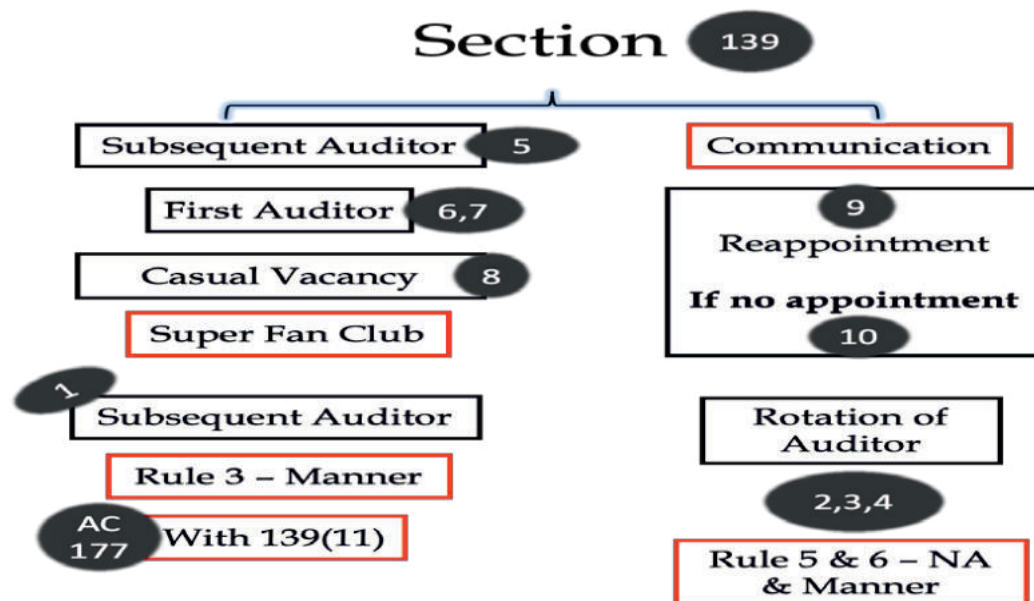
	<p>b) Approximate Amount involved;</p> <p>c) Parties involved, if remedial action not taken; and</p> <p>d) Remedial actions taken.</p> <p>The provision of Section 143(12) shall also apply, mutatis mutandis, to a Cost Accountant and a Company secretary in Practice during the performance of his duties under section 148 and section 204 respectively.</p> <div style="background-color: #90caf9; padding: 10px; border-radius: 10px;"> <ul style="list-style-type: none"> • Section 143 (13) – Safeguards Auditor against reported fraud in good faith. • Applicable to – <ul style="list-style-type: none"> • Cost Auditor • Secretarial Auditor • Branch Auditor • For or against - Already committed and reported Fraud </div>
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1. Every auditor of a company shall have a right of access at all times to__of the company whether kept at the registered office of the company or at any other place
 - a. Books and Account
 - b. Books and Papers
 - c. Books of Account and Vouchers
 - d. Statutory registers
2. Auditor is required to inquire which of the following matters under Section 143(1):
 - a. Sale of Shares and debentures at a price less than purchase amount by a banking company
 - b. Sale of Shares and debentures at a price less than purchase amount by an investment company
 - c. Sale of Fixed Assets and Inventory at a price less than purchase amount by a non-banking company
 - d. Sale of Shares and debentures at a price less than purchase amount by a non- banking company
3. Auditor is required to inquire which of the following matters under Section 143(1):
 - a. Charging of personal expenses to revenue account
 - b. Charging of capital expenses to revenue account
 - c. Charging of Provisions to revenue account
 - d. Charging of Depreciation to revenue account
4. Which of the following statements is correct?
 - a. Reporting on propriety matters u/s 143(1) is required if the auditor finds answer to any of the matters in positive
 - b. Reporting on propriety matters u/s 143(1) is required if the auditor finds answer to any of the matters in negative
 - c. Reporting on propriety matters u/s 143(1) is required in every case irrespective of auditor's observations
 - d. Reporting on propriety matters u/s 143(1) is not the duty of auditor, it is the duty of management

5. Under Section 143(2) auditor is required to, make a report to the members of the, company on the following:
- Accounts Examined by him
 - Financial statement laid before the company in general Meeting
 - Both of the above
 - None of the Above
6. Under Section 143(3), auditor is required to report on following
- Whether loans and advances made by the company have been shown as deposits
 - Whether transactions represented by book entries are prejudicial
 - Whether any director is disqualified from being appointed as director u/s 164(2)
 - Whether financial statements comply with the accounting Standards
- Correct answer is:
- 1 & 2
 - 3 & 4
 - 1 & 3
 - 1, 2, 3 & 4
7. CAG shall within_ from the date of receipt of the audit report have a right to conduct a supplementary audit
- 30 days
 - 45 days
 - 60 days
 - 90 days
8. As per Sec. 143(9) of Companies Act, 2013, every auditor shall comply with__
- Accounting Standards
 - Auditing Standards
 - Engagement Standards
 - Accounting and Auditing Standards
9. Under Section 143(12) of Companies Act, 2013, 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____ he shall immediately report the matter to the____
- company by officers or employees of the company; Registrar of Companies
 - officers or employees of the company by directors; Central Government
 - company by officers or employees of the company; Central Government
 - officers or employees of the company by directors; Registrar of Companies
10. If the auditor does not report u/s 143(2) with respect to fraud, he shall be punishable with fine ranging from:
- 1 Lac to 10 Lacs
 - 1 Lac to 25 Lacs
 - 5 Lacs to 10 Lacs
 - 5 Lacs to 25 Lacs
11. Report u/s 143(12) with respect to fraud shall be sent to
- Registrar of Companies
 - National Company Law Tribunal
 - Secretary, Ministry of Home affairs
 - None of the above
12. The Audit Committee or the Board of Directors, are required to give their reply over the report of auditor in relation to fraud noticed by the auditor, within____
- 15 days
 - 30 days
 - 45 days
 - 60 days
13. Report u/s 143(12) shall be in the form of a statement as specified in_
- ADT-1
 - ADT-2
 - ADT-3
 - ADT-4

14. An auditor appointed under Companies Act, 2013, shall provide only such other services as are approved by_____
- Board of Directors
 - Central Government
 - Board of Directors or the Audit Committee
 - Registrar of Companies
15. Auditor appointed under Companies Act, 2013 cannot render which of the following services:
- Actuarial Services
 - Tax Audit
 - Review of Interim Financial Statements
 - Examination of Prospective Financial Statements
16. Which of the following statement is correct?
- Communication relating to General meeting need not be forwarded to the auditor of the company
 - Auditor has discretion to attend the general meeting
 - Auditor shall have a right to be heard at general meeting
 - None of the above
17. The auditor shall attend___ any general meeting
- himself
 - through his authorised representative
 - either by himself or through his authorised representative
 - at his discretion
18. Right of Lien refers to _____
- Right for lawful possession of somebody's else property
 - Right of access to records of the company
 - Right to obtain necessary information and explanation
 - Right of access to records of subsidiary companies
19. Righto lien can be exercised for
- Non-payment of statutory dues
 - Non-payment of fees by the client
 - Both of the above
 - None of the above

APPOINTMENT OF AUDITOR (Sec 139)



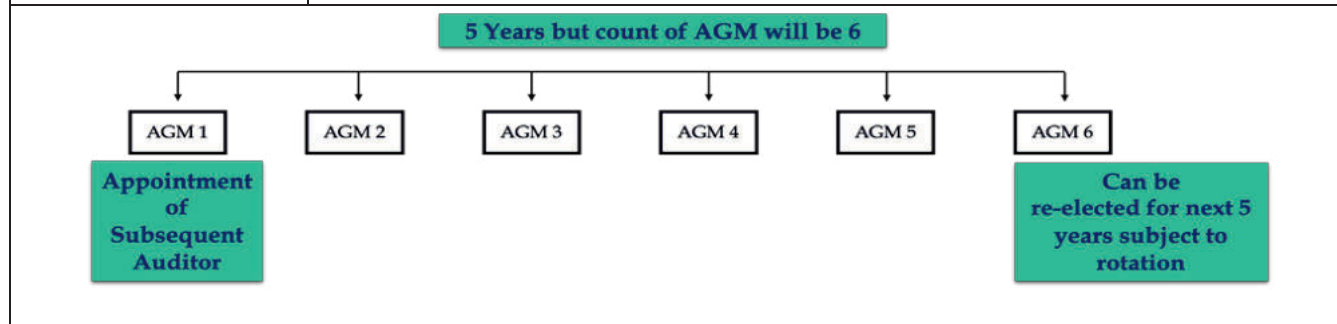
Type of Appointment	Gov Co ?	1 st Stage	2 nd Stage	3 rd Stage	Timeline	Tenure
(1) / (4) Subsequent Auditor	✗	NORMAL CASE <i>Appointed in the first AGM till the conclusion of the 6th AGM</i>				
(5) Subsequent Auditor	✓	Within 180 Days CAG	-	-	From the Commencement of FY	Till the conclusion of Next AGM (2 nd) So on
(6) First Auditor	✗	Within 30 Days BOD	Within 90 Days Members @ EGM	-	Date of registration	Till the First AGM
(7) First Auditor	✓	Within 60 Days C&AG	In NEXT 30 Days BOD	WITHIN 60 Days Members @ EGM	Date of registration	

Points to remember to learn the above tables -

- *Tenure in case of 1st Auditor will be till FIRST AGM and for others NEXT AGM.*
- *If it's a Gov co then C&AG is present otherwise 1st stage is always BOD and last stage is Members.*
- *Gov. Cos are always at liberty so start so that's why - 60 days for 1st Auditor and 180 days for subsequent auditor (Aalsi) not 30 days like other companies.*
- *If it's a Gov co then between 1st and 2nd stage there is - NOT within its NEXT (Lenient).*

<p>Appointment Of Subsequent Auditors in Case of Non Government Companies Sec 139 (1)</p>	<p>Step 1: After considering the following parameters, Audit Committee/Board of Directors shall recommend the name of the proposed Auditor before the shareholders for appointment in AGM by passing Ordinary Resolution:</p> <ol style="list-style-type: none"> 1) Qualification 2) Experience 3) Disciplinary proceedings, if any, pending against the auditor. <p style="text-align: center;">Refer the concept clarity sheet at the end of the chapter for detailed explanation of Rule 3 - Manner and Procedure</p> <p>Step 2: Obtaining a certificate from proposed auditor before appointment.</p> <p>The auditor appointed shall submit a certificate before his appointment that -</p> <ol style="list-style-type: none"> a) The individual or the firm, as the case may be, is eligible for appointment and is not disqualified for appointment under the Act, the Chartered Accountants Act, 1949 and the rules or regulations made thereunder; b) The proposed appointment is as per the terms provided under the Act; c) The proposed appointment is within the limits laid down by or under the authority of the Act {20 Companies u/s 141(3)(g)}; d) The list of proceedings against the auditor or audit firm or any partner of the audit firm pending with respect to professional matters of conduct, as disclosed in the certificate, is true and correct.
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	<p>Step 3: The auditor appointed in the annual general meeting shall hold office from the conclusion of that meeting till the conclusion of the 6th AGM, with the meeting wherein such appointment has been made being counted as the 1st meeting.</p> <p>Step 4: Intimation to Auditor and ROC in Form ADT-1</p> <p>The company shall inform the auditor of its appointment, and also file a notice of such appointment with the Registrar in Form ADT-1 within 15 days of the meeting in which the auditor is appointed.</p> <div style="border: 1px solid black; border-radius: 15px; padding: 10px; margin-top: 10px;"> <ul style="list-style-type: none"> • At 1st AGM • Tenure : Till the conclusion of 6th AGM • Count in which appointed as 1st AGM • Resolution : OR </div>
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Refer the concept clarity sheet at the end of the chapter on the Auditor's certificate and communication

<p>APPOINTMENT OF SUBSEQUENT AUDITORS IN CASE OF GOVERNMENT COMPANIES</p> <p>SEC 139 (5)</p>	<ul style="list-style-type: none"> ➤ in the case of a Government company the C &AG shall, in respect of a F.Y., appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of 180 days from the commencement of the F.Y., who shall hold office till the conclusion of the AGM.
<p>APPOINTMENT OF FIRST AUDITORS IN THE CASE OF A COMPANY, OTHER THAN A GOVERNMENT COMPANY</p> <p>SEC 139 (6)</p>	<ul style="list-style-type: none"> ➤ As per Section 139(6), the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within 30 days from the date of registration of the company. In the case of failure of the Board to appoint the auditor, it shall inform the members of the company. ➤ The members of the company shall within 90 days at an extraordinary general meeting appoint the auditor. ➤ Appointed auditor shall hold office till the conclusion of the first AGM.

<p>APPOINTMENT OF FIRST AUDITORS IN THE CASE OF GOVERNMENT COMPANY</p> <p>SEC 139 (7)</p>	<ul style="list-style-type: none"> ➤ Section 139(7) provides that in the case of a Government company , the first auditor shall be appointed by the CAG of India within 60 days from the date of registration of the company.. ➤ In case the C&AG does not appoint such auditor within the above said period, the Board of Directors of the company shall appoint such auditor within the next 30 days. ➤ Further, in the case of failure of the Board to appoint such auditor within next 30 days, it shall inform the members of the company who shall appoint such auditor within 60 days at an EGM. ➤ * Auditors shall hold office till the conclusion of the first AGM.
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APPOINTMENT OF AUDITOR IN CASE OF CASUAL VACANCY [Section 139(8)]

Type of Appointment	Gov Co ?	1 st Stage	2 nd Stage	3 rd Stage	Timeline	Tenure
(8) Casual Vacancy	✓	Within 30 Days C&AG	In NEXT 30 Days BOD	-		Till the conclusion of Next AGM
(8) Casual Vacancy - Resignation Case	✗	Within 30 Days BOD	-	-		
		Within 3 Months Members @ GM	-	-	Recommen dation of Board	

<p>APPOINTMENT OF FIRST AUDITORS IN THE CASE OF A COMPANY, OTHER THAN A GOVERNMENT COMPANY</p>	<p>Case 1: Casual Vacancy caused due to Death, Dissolution, Incapacity or any reason other than Resignation.</p> <p>Any casual vacancy in the office of an auditor shall be filled by the BOD within 30 days.</p> <p>Case 2: Casual Vacancy caused due to Resignation.</p> <p>Any casual vacancy in the office of an auditor shall be filled by the BOD within 30 days. Tenure of the Auditor so appointed to fill Casual vacancy either in Case 1 or 2: He shall hold the office till the conclusion of the next annual general meeting.</p> <p>Such appointment shall also be approved by the company at a general meeting convened within 3 months of the recommendation of the Board..</p>
<p>FOR GOVERNMENT COMPANY</p>	<ul style="list-style-type: none"> ➤ In the case of a company whose accounts are subject to audit by an auditor appointed by the C & A G, be filled by the C & A G within 30 days. ➤ It may be noted that in case the C & A G does not fill the vacancy within the said period the Board of Directors shall fill the vacancy within next 30 days.

REAPPOINTMENT OF RETIRING AUDITOR [Sec 139(9) & (10)]

- **A retiring auditor may be re-appointed at an AGM, if-**
 - a) He is not disqualified for re-appointment;
 - b) He has not given the company a notice in writing of his unwillingness to be reappointed; &
 - c) A special resolution has not been passed at that meeting appointing some other auditor or providing expressly that he shall not be re- appointed.
- Where at any AGM, no auditor is appointed and re-appointed and retiring auditor can be reappointed [not disqualified u/s 139(9)] the existing auditor shall continue to be the auditor of the company.

ROTATION OF AUDITOR [Sec 139(2)(3)(4)]

Applicability	Type of Company	Threshold	
	Listed Company	NO limit.	
	All unlisted Public Companies having	PUSC \geq 10 crores	
	All Private Limited Companies having	PUSC \geq 50 crores	

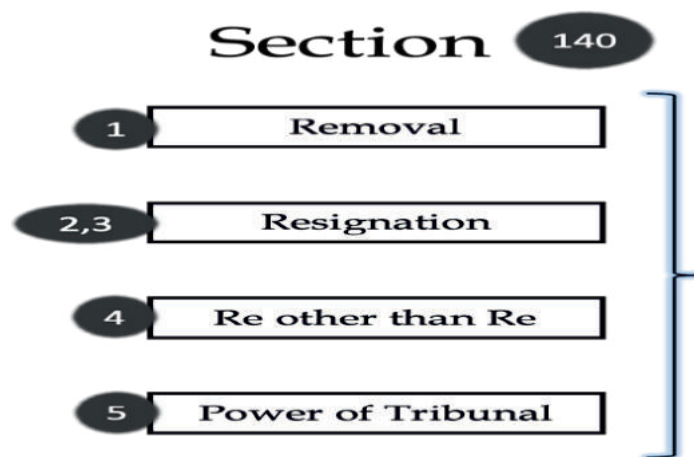
	All companies having PUSC below 10/50 but having public borrowings from financial institutions, banks or public deposits	Borrowings from H, Banks or Public Deposits \geq 50 crores	
Rules	<p>a) An individual as auditor for more than one term of 5 consecutive years; &</p> <p>b) An audit firm as auditor for more than two terms of 5 consecutive years.</p> <p>Cooling Period - Such individual auditor or An audit firm which has completed its term , shall not be eligible for re-appointment as auditor in the same company for 5 years from the completion of such term.</p>		
Who cannot be appointed as Auditor in cooling period	<p>Common Partner</p> <p>As on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of 5 years:</p> <p>Same Network of Firms</p> <p>The incoming auditor or audit firm shall not be eligible if such auditor or audit firm is associated with the outgoing auditor or audit firm under the same network of audit firms.</p> <p>For the purposes of these rules the term "same network" includes the firms operating or functioning, hitherto or in future, under the same brand name, trade name or common control.</p> <p>Signing Partner Resigns & Joins another Firm</p> <p>If a partner, who is in charge of an audit firm and also certifies the financial statements of the company, retires from the said firm and joins another firm of chartered accountants, such other firm shall also be ineligible to be appointed for a period of 5 years.</p> <p>Note - Joint Audit</p> <p>Where a company has appointed two or more individuals or firms or a combination thereof as joint auditors, the company may follow the rotation of auditors in such a manner that both or all of the joint auditors, as the case may be, do not complete their term in the same year.</p>		
Refer the concept clarity sheet at the end of the chapter on Section 139 - Term and Rotation of Auditor			
Section 139(3)	<p>Rotation of Audit Partner, Audit Team</p> <p>Members of a company MAY resolve to provide that in the audit firm appointed by it, the Auditing Partner and his Team shall be rotated at such intervals as may be resolved by members; or</p>		

1. Auditor appointed at AGM shall hold the office from the conclusion of that AGM till the conclusion of
 - a. Sixth AGM
 - b. Next AGM
 - c. Fifth AGM
 - d. Tenth AGM

2. An Individual auditor of a Listed company who has completed his term shall not be eligible for re-appointment as auditor in the same company for ___ years from the conclusion of his term
 - a. 2
 - b. 3
 - c. 5
 - d. 10

3. Which of the following company shall not appoint an audit firm as auditor for more than two terms of five consecutive years:
 - a. Unlisted Public company having Turnover of Z 10 Cr. or more
 - b. Unlisted Public company having Turnover of Z 20 Cr. or more
 - c. Unlisted Public company having Paid up share capital of Z 10 Cr. or more
 - d. Unlisted Public company having Paid up share Capital of Z 20 Cr. or more
4. Subsequent auditor in case of Government Company shall be appointed within____ from the commencement of the financial year
 - a. 30 days
 - b. 90 days
 - c. 120 days
 - d. 180 days
5. First auditor shall hold office till conclusion of
 - a. First AGM
 - b. Sixth AGM
 - c. Next AGM
 - d. Second AGM
6. Casual vacancy in the office of an auditor, shall be filled by the Board of Directors within____
 - a. 30 days
 - b. 60 days
 - c. 90 days
 - d. 120 days
7. Which of the following statement is correct?
 - a. Casual Vacancy in case of resignation of auditor shall be filled by Board of Directors within 90 days
 - b. Casual Vacancy in case of Government company shall be filled by Central Govt. within 90 days
 - c. Casual Vacancy means a vacancy arises after completion of the tenure
 - d. None of the Above

REMOVAL OF AUDITOR [Sec 140]



<p>REMOVAL OF AUDITOR BEFORE EXPIRY OF HIS TERM [SEC 140(1)]</p>	<p>➤ The auditor appointed u/s 139 may be removed from his office before the expiry of his term only by a SPECIAL RESOLUTION of the company, after obtaining the PREVIOUS APPROVAL OF THE CG in that behalf as per Rule 7 of Companies (Audit & Auditors) Rule, 2014:</p> <ol style="list-style-type: none"> 1. The application to the CG for removal of auditor shall be made in Form ADT-2 & 2. The application shall be made to the CG within 30 days of the resolution passed by the Board 3. The company shall hold the general meeting within 60 days of receipt of approval of the CG for passing the special resolution. <p>Note - The CG shall give the auditor a reasonable opportunity of being heard before taking any action as above.</p>
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1. For the removal of an auditor before the expiry of his term, which of the following sequence of events is correct (Nov 23)
 - a. Board meeting - General meeting for passing a special resolution Application to Central Government - Grant of approval by Central Government
 - b. Application to Central Government - Grant of approval by Central Government - Board meeting - General meeting for passing a special resolution
 - c. General meeting for passing a special resolution - Board meeting Application to Central Government - Grant of approval by Central Government
 - d. Board meeting - Application to Central Government - Grant of approval by Central Government - General meeting for passing a special resolution

Resignation By Auditor [Sec 140 (2) & (3)].	<ul style="list-style-type: none"> ➤ As per section 140(2) of the Act, the auditor who has resigned from the company shall file within a period of 30 days from the date of resignation, a statement in the prescribed Form ADT-3 (as per Rule 8 of CAAR) with the company & the Registrar. ➤ In case of the companies referred to in section 139(5) i.e. Government company, the auditor shall also file such statement with the CAG along with the company & the Registrar. ➤ In case of failure, the auditor shall be liable to a penalty of Z 50,000 or the remuneration of the auditor, whichever is less, & in case of continuing failure, with further penalty ₹ 500 for each of day after the first during which such failure continues, subject to a maximum of ₹ 200,000 as per section 140(3). 	
Refer the concept clarity sheet at the end of the chapter on Sec. 140 – Removal and Resignation of Auditors		
Appointme nt of Auditor Other than Retiring Auditor [SEC 140(4)]	Special Notice	<ul style="list-style-type: none"> ➤ Special notice shall be required for a resolution at an AGM appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be re-appointed, except where the retiring auditor has completed a consecutive tenure of 5 years or, as the case may be, 10 years.
	Copy of Special Notice	<ul style="list-style-type: none"> ➤ On receipt of notice of such a resolution, the company shall forthwith send a copy thereof to the retiring auditor.
	Representati on	<ul style="list-style-type: none"> ➤ Retiring Auditor has power to represent ➤ Company shall send copy of representation to all members and in case of failure to do so , auditor can ask it to read out in G.m ➤ Provided that if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar. ➤ Provided further that if the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred

	<p>by this sub-section are being abused by the auditor, then, the copy of the representation may not be sent & the representation need not be read out at the meeting.</p>
<p>In AGM</p>	<ul style="list-style-type: none"> ➤ Pass O.R to appoint new Auditor ➤ Pass O.R to remove retiring Auditor
<pre> graph TD A[A Special Notice is received for Removal of auditor] --> B[A board meeting will be held (To decide about removal and then authorising the filing of application to CG through Board Resolution)] B --> C[Application to CG (To be made in ADT-2), within 30 days of Board Resolution] C --> D[Approval of CG received] D --> E[After approval from CG, Special Notice to be sent for AGM (within 60 days of receipt of approval)] E --> F[Auditor shall be given a reasonable opportunity of being heard] F --> G[Passing a Special Resolution on removal of the auditor] G --> H[Auditor will be removed] </pre>	
<p>REMOVAL OF AUDITOR BY TRIBUNAL & CG [SEC 140(5)]</p> <p style="background-color: #e0f2f1; padding: 2px;">In NCLT - 9</p>	<ul style="list-style-type: none"> ➤ Tribunal either suo moto or on an application made to it by the CG or by any person concerned, ➤ if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors. ➤ it shall within 15 days of receipt of such application, make an order that he shall not function as an auditor & the CG may appoint another auditor in his place. ➤ whether individual or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of 5 years from the date of passing of the order & the auditor shall also be liable for action u/s 447. <p style="background-color: #e0f2f1; padding: 2px; text-align: center;">Auditor in default is disqualified for 5 years and liable to penalty u/s 447</p>

6. To appoint as auditor, a person other than a retiring auditor, who is eligible for reappointment, __ is required
- a. Approval of Central Government
 - b. Special Notice
 - c. Approval of CAG
 - d. Ordinary Resolution

PUNISHMENT FOR NON-COMPLIANCE [Sec 147]

Section 147 of the Companies Act, 2013 prescribes following punishments for contravention:	
Contravention By Company	<ul style="list-style-type: none"> ➤ If any of the provisions of sec 139 to 146 (both inclusive) is contravened, the company shall be punishable with fine which shall not be less than 25,000 but which may extend to 5 lakhs & every officer of the company who is in default shall be punishable with fine which shall not be less than Z 10,000 but which may extend to 1 lakh.
Contravention By Auditor	<ul style="list-style-type: none"> ➤ If an auditor of a company contravenes any of the provisions of sec 139, sec 144 or sec 145, the auditor shall be punishable with fine which shall not be less than Z 25,000 but which may extend to Z 5 lakhs [or 4 times the remuneration of the auditor, whichever is less] ➤ Provided that if an auditor has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with imprisonment for a term which may extend to 1 year & [with fine which shall not be less than Z 50,000 but which may extend to Z 25 lakhs or 8 times the remuneration of the auditor, whichever is less] ➤ Where an auditor has been convicted under sub-section (2), he shall be liable to— <ol style="list-style-type: none"> i. refund the remuneration received by him to the company; & ii. pay for damages to the company, statutory bodies or authorities
	[or to members or creditors of the company] for loss arising out of incorrect or misleading statements of particulars made in his audit report.
Refer the concept clarity sheet at the end of the chapter on the Punishment Clause	

1. As per Sec 147 of the Companies Act, 2013, if any of the provisions of sections 139 to 146 (both inclusive) is contravened, the company shall be punishable with fine which shall not be less than _____ but which may extend to
 - a. 25,000; 5 Lacs
 - b. 10,000; 1 Lac
 - c. 50,000; 25 Lacs
 - d. 25,000; 1 Lac

2. As per Sec. 147 of the Companies Act, 2013, if any of the provisions of sections 139 to 146 (both inclusive) is contravened, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to__ or with fine which shall not be less than_ but which may extend to_____ or with both
 - a. 1 year; 25,000; 5 Lacs
 - b. 1 year; 10,000; 1 Lac
 - c. 3 years; 25,000; 5 Lacs
 - d. 3 years; 10,000; 1 Lac

3. As per Sec. 147 of the Companies Act, 2013, if an auditor of a company contravenes any of the provisions of Sec. 139, Sec. 143, Sec. 144 or Sec. 145, the auditor shall be punishable with fine which shall not be less than_ but which may extend to___
 - a. 25,000; 5 Lacs or five times the remuneration of auditor whichever is less
 - b. 25,000; 5 Lacs or five times the remuneration of auditor whichever is more
 - c. 25,000; 5 Lacs or four times the remuneration of auditor whichever is less
 - d. 25,000; 5 Lacs or four times the remuneration of auditor whichever is more

COST AUDIT [Sec 148]

Applicability for Maintenance of Cost Records	<ul style="list-style-type: none"> ➤ Rule 3 of the Companies (Cost Records & Audit) Rules, 2014 provides the classes of companies, engaged in the production of goods or providing services, having an overall turnover from all its products & services of '35 crore or more during the immediately preceding financial year, required to include cost records in their books of account. ➤ These companies include Foreign Companies defined in sub-section (42) of section 2 of the Act, but exclude a company classified as a Micro enterprise or a Small enterprise including as per the turnover criteria.
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Maintenance of Cost Records	➤ in Form CRA-1,
Applicability of Cost Audit	<p>➤ Rule 4 of the Companies (Cost Records & 'Audit) Rules, 2014 states the provisions related to the applicability of cost audit depending on the turnover of the company as follows-</p> <p>1) TABLE-A:- Regulated Sector (6 Industries)</p> <p>a) Petroleum</p> <p>b) Pharmaceutical</p>
	<p>c) Telecom</p> <p>d) Electricity</p> <p>e) Fertilizer</p> <p>f) Sugar & Industrial Alcohol</p> <p>2) TABLE-B:- Non-Regulated Sector (33 Industries)</p> <p>a) Paper</p> <p>b) Milk & Milk Powder</p> <p>c) Iron & Steel</p> <p>d) Military Tanks, etc</p> <p>➤ Classes of companies specified under item (A) "Regulated Sectors" are required to get its cost records audited if the overall annual turnover of the company from all its products & services during the immediately preceding financial year is 50 crore or more & the aggregate during of the individual product(s) or service(s) for which cost records are required to be maintained under rule 3 is 25 crore or more.</p> <p>➤ Classes of companies specified under item (B) "Non-Regulated Sectors" are required to get its cost records audited if the overall annual turnover of the company from all its products & services during the immediately preceding financial year is 100 crore or more & the aggregate turnover of the individual product(s) or service(s) for which cost records are required to be maintained under rule 3 is 35 crore or more.</p>

<p>Rule 4 – Cost Audit will be applicable - If the company during immediately Preceding FY</p> <p>For Companies specified in Table A (Regulated Sector)</p> <p>Overall T/O for all Product /Services \geq 50 Cr AND T/O of P/S for which cost records are to be maintained as per Rule 3 under Table A \geq 25 Cr</p> <p>For Companies specified in Table B (Unregulated Sector)</p> <p>Overall T/O for all Product /Services \geq 100 Cr AND T/O of P/S for which cost records are to be maintained as per Rule 3 under Table B \geq 35 Cr</p>	
EXEMPTION FROM COST AUDIT	<ul style="list-style-type: none"> ➤ The requirement for cost audit under these rules shall not be applicable to a company which is covered under rule 3, and, <ul style="list-style-type: none"> i. whose revenue from exports, in foreign exchange, exceeds 75% of its total revenue; or ii. which is operating from a special economic zone. iii. which is engaged in generation of electricity for captive consumption through Captive Generating Plant.
<p>Refer the concept clarity sheet at the end of the chapter on Provisions related to Cost Auditor</p>	
WHO CAN BE COST AUDITOR?	<ul style="list-style-type: none"> ➤ by a Cost Accountant who shall be appointed by the Board of such remuneration as may be determined by the members in such manner as may be prescribed. ➤ It may also be noted that the auditor conducting the cost audit shall comply with the cost auditing standards.
Dis-QUALIFICATIONS, APPOINTMENT & REMUNERATION OF COST AUDITOR	<p>Rule 6 of the Companies (Cost Records & Audit) Rules, 2014 -</p> <ul style="list-style-type: none"> ➤ Requires the companies prescribed under the said Rules to appoint an Auditor within 180 days of the commencement of every F.Y. ➤ It may be noted that the Form CRA-2 to be filed with the Central Government for intimating appointment ➤ The qualifications, disqualifications, rights, duties and obligations applicable to auditors under this Chapter shall, so far as may be
	applicable, apply to a cost auditor

REMOVAL OF COST AUDITOR	<ul style="list-style-type: none"> ➤ The cost auditor may be removed from his office before the expiry of his term, through a board resolution after giving a reasonable opportunity of being heard to the cost auditor & recording the reasons for such removal in writing.
CASUAL VACANCY IN THE OFFICE OF A COST AUDITOR	<ul style="list-style-type: none"> ➤ Any casual vacancy in the office of a Cost Auditor, whether due to resignation, death or removal, shall be filled by the Board of Directors within 30 days of occurrence of such vacancy & the company shall inform the central government in Form CRA-2 within 30 days of such appointment of cost auditor.
SUBMISSION OF COST AUDIT REPORT	<ul style="list-style-type: none"> ➤ To the-Board of Directors of the Company- The cost auditor shall submit the cost audit report along with his reservations or qualifications or observations or suggestions, if any, in Form CRA-3.within a period of 180 days from the closure of the financial year ➤ To the Central Government- The company shall within 30 days from the date of receipt of a copy of the cost audit report prepared (in pursuance of a direction issued by Central Government) furnish the Central Government with such report along with full information & explanation on every reservation or qualification contained therein in Form CRA-4 in Extensible Business Reporting Language (XBRL) format ➤ If, after considering the cost audit report & the, information & explanation furnished by the company as above, the Central Government is of the opinion, that any further information or explanation is necessary, it may call for such further information & explanation & the company shall furnish the same within such time as may be specified by that Government.
DUTY TO REPORT ON FRAUD	<ul style="list-style-type: none"> ➤ The provisions of section 143(12) of the Companies Act, 2013 & the relevant rules on duty to report on fraud shall apply mutatis mutandis to a cost auditor during performance of his functions u/s 148 of the Act & these rules.

Company auditor (139) cannot be a cost auditor.

Other Provisions to apply to cost auditor as well -

- Penalty same as 147
- Section 141/143 mutatis mutandis applicable to 148
- Cost audit is in addition (+) to the statutory audit.

1. The turnover criteria for applicability of Companies (Cost Records and Audit) Rules, 2014 is
 - a. at the end of immediately preceding financial year
 - b. at the end of the financial year
 - c. average of 3 preceding financial year
 - d. when the company achieves the turnover during the current financial year
2. A cost auditor submits his report to
 - a. Government
 - b. Shareholders
 - c. Statutory Auditor
 - d. Board of Director

Form	Purpose
CRA-1	The manner in which cost records to be maintained
CRA-2	For intimation of appointment of cost auditor by company to the Central Government
CRA-3	Cost Audit Report
CRA-4	Filing of the cost audit report with the Central Government

3. Example module

Case	Turnover (Figures in Crore)					Applicability of Cost Records
	Table A Products	Table B Products	Table A+B Products	Other Products	Total	
1	10	10	20	10	30	No
2	10	10	20	20	40	Yes
3	0	10	10	30	40	Yes
4	10	0	10	30	40	Yes
5	20	20	40	0	40	Yes
6	0*	0*	0	40	40	No

4. * Not-engaged in the production of the goods or providing services, specified in the Table A (6 Regulated Sectors) and/or Table B (33 Non-Regulated Sector)

Example							
Case	Turnover (Figures in Crore)					Applicability of	
	Table A Products	Table B Products	Table A+B Products	Other Products	Total	Cost Records	Cost Audit
1	10	10	20	10	30	No	No
2	10	10	20	20	40	Yes	No
3	20	20	40	0	40	Yes	No
4	10	20	30	10	40	Yes	No
5	10	20	30	20	50	Yes	Yes, but only for table A
6	0	20	20	20	40	Yes	No

7	20	10	30	80	110	Yes	Only Table A Product
8	20	20	40	70	110	Yes	Both Tables A & B Products
9	10	10	20	80	100	Yes	No
10	15	15	30	10	40	Yes	No
11	20	20	40	8	48	Yes	No

Other MCQ For Practise

1. CA. X is a partner in M/s AB & Associates and M/s MN & Associates simultaneously. M/s AB & Associates has completed its tenure of 10 years as an auditor in XYZ Ltd. immediately preceding the current financial year. It may be noted that the provisions for applicability of rotation of auditors are applicable to XYZ Ltd. Now, the company wants to appoint M/s MN & Associates as auditor for 5 years.
 - a. M/S MN & Associates cannot be appointed as auditor being not eligible u/s 141(3) of Companies Act, 2013
 - b. M/S MN & Associates cannot be appointed as auditor being not eligible as per Rule 6 of Companies (Audit & Auditor's) Rules, 2014
 - c. M/S MN & Associates cannot be appointed as auditor being not eligible as per proviso to Sec. 139(2) of Companies Act, 2013
 - d. M/S MN & Associates cannot be appointed as auditor being not eligible u/s 141(1) of Companies Act, 2013

2. ABC Pvt. Ltd., a new company, incorporated on 01.07.2018 is engaged in the manufacturing business. On 30.07.2018, the Managing Director of ABC Pvt. Ltd. himself appointed CA Mohan, as the first auditor of the company.
 - a. Appointment of Mr. Mohan is invalid as first auditor of a company can be appointed by members of the company as per Sec.139(6) of Companies Act, 2013
 - b. Appointment of Mr. Mohan is invalid as first auditor of a company can be appointed by Board of Directors as per Sec. 139(6) of Companies Act, 2013
 - c. Appointment of Mr. Mohan is invalid as first auditor of a company can be appointed by members of the company as per Sec. 139(1) of Companies Act, 2013
 - d. Appointment of Mr. Mohan is invalid as first auditor of a company can be appointed by Board of Directors as per Sec. 139(1) of Companies Act, 2013

3. KM Pvt. Ltd., engaged in the manufacturing business of Silk Shirts, is a newly incorporated company dated 01.09.2018. On 28.09.2018, the members of KM Pvt. Ltd. themselves appointed CA Raj, a renowned practitioner, as the first auditor of the company opposing that Board is not authorised to appoint the auditor.
 - a. Appointment of CA. Raj is valid as first auditor of a company can be appointed by members of the company as per Sec. 139(6) of Companies Act, 2013
 - b. Appointment of CA. Raj is invalid as first auditor of a company within 30 days of incorporation of company can be appointed by CAG as per Sec. 139(6) of Companies Act, 2013
 - c. Appointment of CA. Raj is valid as first auditor of a company can be appointed by members of the company as per Sec. 139(1) of Companies Act, 2013

- d. Appointment of CA. Raj is invalid as first auditor of a company within 30 days of incorporation of company can be appointed by Board of Directors as per Sec. 139(6) of Companies Act, 2013
4. KM Ltd., a Government company is incorporated on 01.09.2018. On 28.09.2018, the Board of Directors themselves appointed CA Raj, a renowned practitioner, as the first auditor of the company.
- a. Appointment of CA. Raj is invalid as first auditor of a government company within 30 days of incorporation of company can be appointed by Central Government as per Sec. 139(7) of Companies Act, 2013.
- b. Appointment of CA. Raj is invalid as first auditor of a government company within 60 days of incorporation of company can be appointed by Central Government as per Sec. 139(7) of Companies Act, 2013.
- c. Appointment of CA. Raj is invalid as first auditor of a government company within 30 days of incorporation of company can be appointed by CAG as per Sec. 139(7) of Companies Act, 2013.
- d. Appointment of CA. Raj is invalid as first auditor of a government company within 60 days of incorporation of company can be appointed by CAG as per Sec. 139(7) of Companies Act, 2013,
5. PQR Company Ltd. removed their first auditor by passing a resolution in the meeting of the Board of Directors for his removal without obtaining prior approval from the Central Government.
- a. Removal is valid as approval of Central Government is not required in case of first auditor.
- b. Removal is not valid as approval of Central Government is not obtained.
- c. Removal is not valid as first auditor of a company cannot be removed.
- d. Removal is not valid as first auditor can be removed by Audit Committee.
6. "Mr. A", a practicing Chartered Accountant, is holding securities of "XYZ Ltd." having face value of 90000. XYZ Ltd. wants to appoint Mr. B, partner of Mr. A as its auditor. Mr. B does not hold any securities in the company.
- a. Mr. B is not eligible for appointment as an Auditor of "XYZ Ltd" as his partner holds securities of the company.
- b. Mr. B is eligible for appointment as an Auditor of "XYZ Ltd" as the value of securities hold by his partner is less than 1 Lac.
- c. Mr. B is eligible for appointment as an Auditor of "XYZ Ltd" as he do not hold any securities of the company.
- d. Mr. B not eligible for appointment as an Auditor of "XYZ Ltd." as his partner holds securities of the company exceeding 1,000.
7. Mr. B, a partner of Mr. A held shares of face value of Z 1,05,000 in DEF Ltd., the holding company of ABC Ltd. Mr. B has sold the securities after a period of 45 days from the date of appointment of Mr. A as an auditor of ABC Ltd.
- a. Appointment of Mr. A in ABC Ltd. as auditor is valid as his partner Mr. B sold the securities within 60 days of appointment of Mr. A.

- b. Appointment of Mn A in ABC Ltd. as auditor is valid as shareholding of Mr. B in the holding company of ABC Ltd. is of no relevance.
- c. Appointment of Mr. A in ABC Ltd. as auditor is invalid as his partner Mr. B hold shares in the holding company of ABC Ltd. at the time of appointment.
- d. Appointment of Mr. A in ABC Ltd. as auditor is invalid as his partner Mr. B hold shares in the holding company of ABC Ltd. in excess of Z 1 Lac.
8. Mrs. A, wife of Mr. A had given a financial guarantee for the principal amount of a debt owed by Mr. X to ABC Ltd. for 6 lakhs. Mr. X has repaid Z 5 lakhs to ABC Ltd. 2 days before the date of appointment of Mr. A as an auditor of the company.
- a. Appointment of Mr. A in ABC Ltd. is not valid as his wife has given guarantee to ABC Ltd. for an amount in excess of Z 1 Lac.
- b. Appointment of Mr. A in ABC Ltd. is not valid as his wife has given guarantee to ABC Ltd. for an amount in excess of Z 5 Lac.
- c. Appointment of Mr. A in ABC Ltd. is valid as the outstanding amount of guarantee given by his wife at the time of appointment does not exceed 1 Lac.
- d. Appointment of Mr. A in ABC Ltd. is valid as guarantee given by the relative of the auditor is of no relevance.
9. As per Sec. 141(3) (g) of the Companies Act, 2013, a person shall not be eligible for appointment as an auditor if he is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than twenty (20) Companies, other than one-person company, dormant companies, small companies and private companies having paid up capital
- a. 100 Crores, which has not committed default in filing its financial statements under section 137 or annual return under section 92 of the Companies Act with the Registrar.
- b. less than 100 Crores, which has not committed default in filing its financial statements under section 137 or annual return under section 92 of the Companies Act with the Registrar.
- c. less than 100 Crores, which has not committed default in filing its financial statements under section 92 or annual return under section 137 of the Companies Act with the Registrar.
- d. 100 Crores, which has not committed default in filing its financial statements under section 92 or annual return under section 137 of the Companies Act with the Registrar.
10. Which of the following is true?
- a. Where at any AGM, no auditor is appointed or re-appointed, the existing auditor shall continue be the auditor of the company.
- b. If the auditor appointed at the AGM refuses to accept the same, the Company can appoint another person by holding General Meeting.

- c. If appointment of a person as an auditor is void-ab-initio, it should be treated as a casual vacancy.
- d. An auditor can be appointed as first auditor of a newly formed company simply because his name has been stated in the Articles of Association.
11. As per proviso to Sec. 140(5) of Companies Act, 2013, if the application is made by the Central Government and the Tribunal is satisfied that any change of the auditor is required, it shall within of receipt of such application, make an order that he shall not function as an auditor and the_ may appoint another auditor in his place.
- 15 days, Tribunal
 - 15 days, Central Government
 - 30 days, Tribunal
 - 30 days, Central Government
12. As per proviso to Sec. 140(5) of Companies Act, 2013, an auditor, whether individual or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of ___ for a period of ___ from the date of passing of the order.
- any company, 5 years
 - same company, 5 years
 - any company, 10 years
 - same company, 10 years
13. Sec. 143(3)(i) of Companies Act, 2013 requires the auditor to report, whether the company has adequate internal financial controls with reference to financial statements in place and the operating effectiveness of such controls. This reporting is not required in case of private companies:
- which is a one person company or a small company
 - which has turnover less than 50 crores as per latest audited financial statement or which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 25 Cr.
 - which has turnover less than 7 25 crores as per latest audited financial statement and which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 50 Cr.
 - which has turnover less than 100 crores as per latest audited financial statement and which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 50 Cr.
14. Sec. 143(3)(i) of Companies Act, 2013 requires the auditor to report, whether the company has adequate internal financial controls with, reference to financial statements in place and the operating effectiveness of such controls. This reporting is not required in case of private companies:
- which has turnover less than? 50 crores as per latest audited financial statement or which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 25 Cr.
 - which has turnover less than 25 crores as per latest audited financial statement and which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 50 Cr.

- c. which has turnover less than t 100 crores as per latest audited financial statement and which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 50 Cr.
- d. which has turnover less than 50 crores as per latest audited financial statement and which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than 25 Cr.
15. As per Sec. 143(6) of Companies Act, 2013, the Comptroller and Auditor General of India shall within ___ days from the date of receipt of the audit report have a right to, conduct a_ of the of the company by such person or persons as he may authorise in this behalf.
- 60 days, Supplementary Audit, books of account
 - 60 days, Supplementary Audit, financial statements
 - 60 days, Test Audit, books of accounts
 - 90 days, Test Audit, financial statements
16. As per Sec. 143(8) of Companies Act, 2013, where the branch office of a company is situated in a country outside India, the accounts of the branch office shall be audited
- only by the company's auditor
 - only by a person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country
- c. either by the company's auditor or by an accountant or by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country
- d. either by the company's auditor or by a cost accountant or by any other person duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country
17. As per Sec. 143(12) of Companies Act, 2013, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employ ees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed. The amount prescribed for this purpose is__
- Individually 1 Cr. or above
 - Individually above 7 1 Cr.
 - 1 Cr. or above in aggregate
 - above 7 1 Cr. in aggregate
18. Reporting of fraud to Central Government required under Section 143(12) of Companies Act, 2013 read with Rule 13 of Companies (Audit & Auditor's) Rules, 2014 shall be in the form of a statement as specified in__ and sent to

- a. Form ADT-3; Secretary, Institute of Chartered Accountants of India
- b. Form ADT-4; Secretary, Ministry of Corporate Affairs
- c. Form ADT-4; Secretary, Ministry of Law and Justice
- d. Form ADT-3; Secretary Indian Institute of Corporate Affairs
19. As per Sec. 143(15) of Companies Act, 2013, if any auditor, cost accountant or company secretary in practice do not comply with the provisions of Sec. 143(12), he shall be punishable with fine which shall not be less than _____ but which may extend to _____
- a. 1 lac; 25 Lacs
- b. 5 lac; 7 25 Lacs
- c. 1 lac; 5 Lacs
- d. 1 lac; 10 Lacs
20. As per Section 144 of the Companies Act, 2013, auditor appointed under this Act cannot render certain services to the company. Which of the following service is not covered in the services prescribed u/s 144?
- a. Investment Banking Services
- b. Investment Advisory Services
- c. Design and implementation of any Operational information system
- d. rendering of outsourced financial services
21. As per Section 144 of the Companies Act, 2013, auditor appointed under this Act cannot render certain services to the company, whether such services are rendered directly or indirectly. For the purposes of this section, the term "directly or indirectly" shall include rendering of services by the auditor, in case of auditor being an individual, either himself or through
- a. his partner or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual
- b. his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual
- c. his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual may or may not have significant influence or control, or whose name or trade mark or brand is used by such individual
- d. his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand may or may not use by such individual
22. As per Section 144 of the Companies Act, 2013, auditor appointed under this Act cannot render certain services to the company or its__
- a. holding company or subsidiary company

- b. holding company, subsidiary company or associate company
 - c. holding company, subsidiary company, associate company or another subsidiary of holding company
 - d. holding company, subsidiary company, associate company, another subsidiary of holding company or subsidiary of associate company
23. For the purposes of Section 148(1) of the Companies Act, 2013, the specified class of companies, including foreign companies, engaged in the production of the goods or providing services, having an overall turnover from all its products and services of_ , shall include cost records for such products or services in their books of account
- a. 35 Cr. or more during the immediately preceding financial year
 - b. 35 Cr. or more during the financial year
 - c. More than 35 Cr. during the immediately preceding financial year
 - d. More than 35 Cr. during the financial year
24. Sec. 143(1) of Companies Act, 2013 requires the auditor to inquire into certain matters of propriety matters. Which of the following matter is not covered in Sec. 143(1)?
- a. Whether loans and advances made by the company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the company or its members.
 - b. Whether loans and advances made by the company have been shown as deposits.
 - c. Whether the company has granted any loans, secured or unsecured to companies, firms, LLPs or other parties covered in the register maintained under section 189 of the Act. If so, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular.
 - d. Where it is stated in the books and documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment.
25. As per Sec. 143(3) of Companies Act, 2013, the auditor report shall also state certain matters. Which of the following is not covered in reporting u/s 143(3)?
- a. whether any director is disqualified from being appointed as a director under sub-section (2) of section 164.
 - b. whether maintenance of cost records has been specified by the Central Government u/s 148(1) of the Companies Act, 2013 and whether such accounts and records have been so made and maintained.
 - c. 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.
 - d. whether the company has adequate internal financial controls with reference to financial statements in place and the operating effectiveness of such controls.

26. As per Rule 11 of Companies (Audit & Auditor's) Rules, 2014, the auditor's report shall also include auditor's views and comments on certain matters. Which of the following is covered in Rule 11?
- Whether moneys raised by way of initial public offer or further public offer (including debtinstruments) and term loans were applied for the purposes for which those are raised
 - Whether any fraud by the company or any fraud on the Company by its officers/employees has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated
 - Whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether provisions of Section 192 of Companies Act, 2013 have been complied with
 - Whether there has been any delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the company
27. ABC & Co. is a firm of Chartered Accountants has three partners, A, B & C. The firm is holding audit of 55 companies which include 10 small companies, 5 government public companies, 5 listed companies, 5 OPC, 15 public companies and 15 private companies having paid up capital more than 100 crores. Firm has been offered the appointment as auditors of 30 companies. Of the 30 companies, 5 are private companies having paid up capital of each company is below 100 crores and the remaining 25 companies are public companies.
- Firm can accept audit of all 30 companies.
 - Firm can accept audit of 25 companies including 5 private companies.
 - Firm can accept audit of 20 companies including 5 private companies.
 - Firm can accept audit of 15 companies including 5 private companies.
28. As per Sec. 143(3)(f) of Companies Act, 2013, 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". The word "observations or comments" as used in the clause U) refers to:
- EOM Paragraphs and the situations leading to modification in the auditor's report.
 - Key Audit matters communicated in the audit report.
 - Matters covered under Sec. 143(1) relating to propriety aspects.
 - Material uncertainty as to going concern which requires a separate section in the audit report titled "Material uncertainty relating to Going concern".
29. If the auditor has contravenes provisions of Sec. 139, 143, 144 or 145, knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities, the auditor shall be punishable with imprisonment which may extend to ___ and with fine ranging from
- one year; 25,000 - 5,00,000
 - five years; 1,00,000 to lower of 25,00,000 or 8 times of remuneration
 - one years; 50,000 to lower of 25,00,000 or 8 times of remuneration
 - five years; 50,000 - 25,00,000

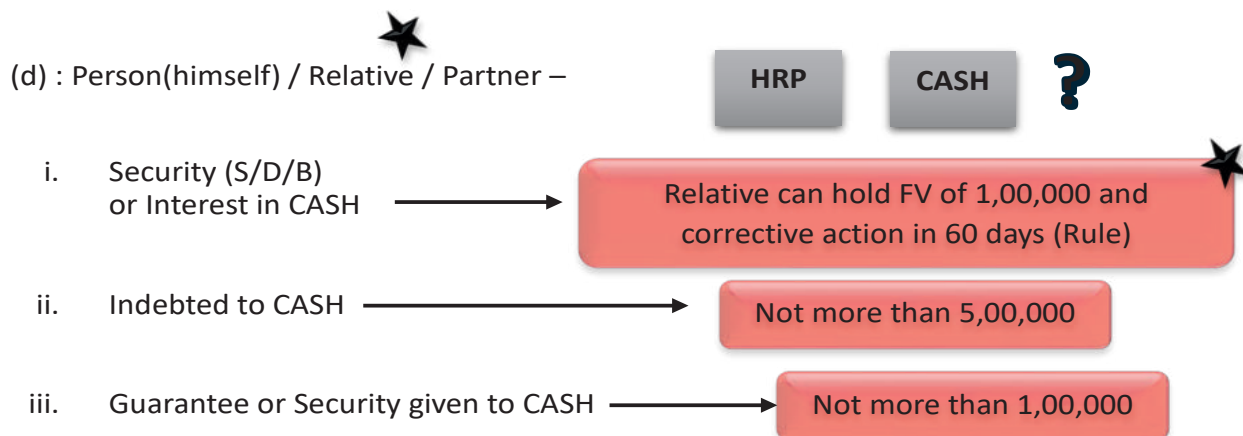
30. The auditor who has resigned from the company shall file within a period of 30 days from the date of resignation, a statement in the Form ADT-3 with the company and the Registrar. If the auditor does not comply with requirement of Sec. 140(2), he or it shall be punishable with fine of
- a. 50,000 or the remuneration of the auditor, whichever is less, but it may extend to 5 Lacs
 - b. 50,000 or the remuneration of the auditor, whichever is higher, but it may extend to 5 Lacs
 - c. 50,000 or two times of the remuneration of the auditor, whichever is less, but it may extend to 5 Lacs
 - d. 50,000 or two times of the remuneration of the auditor, whichever is higher, but it may extend to 5 Lacs
31. As per Sec, 143(12) of Companies Act, 2013,11 an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed. The amount so prescribed is
- a. 1 Cr. or above, individually as per Rule 13 of Companies (Audit and Auditor's) Rules, 2014
 - b. 1 Cr. or above, in aggregate as per Rule 13 of Companies (Audit and Auditor's) Rules, 2014
 - c. 1 Cr. or above, individually as per Rule 13 of Companies (Accounts) Rules, 2014
 - d. 1 Cr. or above, in aggregate as per Rule 13 of Companies (Accounts) Rules, 2014
32. As per Sec. 146 of Companies Act, 2013, mentioned in the auditor's report shall be read before the company in general meeting and shall be open to inspection by any member of the company
- a. the qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company
 - b. any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith
 - c. any operating effectiveness of internal financial controls with reference to financial statements
 - d. director's disqualifications u/s 164(2) of Companies Act, 2013

DISQUALIFICATIONS FOR AUDITOR'S APPOINTMENT

(a) & (b) : BC - LLP and O/E

(c) : Pee —of-- O/E

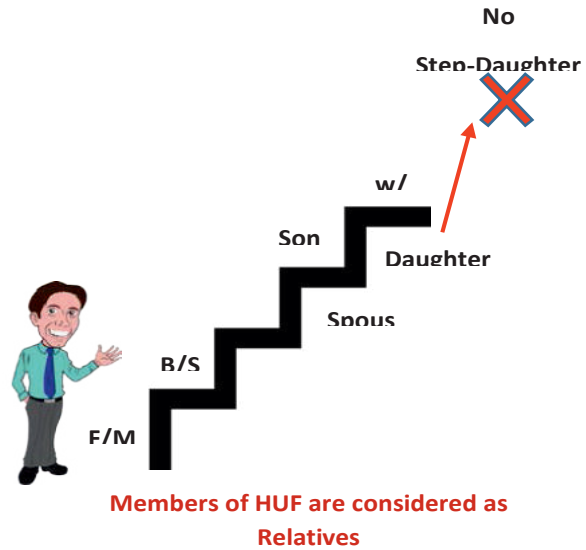
- Body Corporate – **Except LLP**
- Officer/Employee
- Pee (Partner/employee) of Off/Ee



Conclusions -

- ✓ Exemption only for Relatives
- ✓ Consider FV and not MV
- ✓ Auditor / Partner – Can't hold even a penny
- ✓ 60 days time also for Relatives only and not for himself/Partner.

Relative definition



(e)

Firm /

Business relationship
(Directly / Indirectly)

CASH (Combo also)

Except –

1. Professional services (Subject to - Section 144) and
2. Commercial transactions in the ordinary course of business @ ALP – Arm's Length Price

f) Person's → Relative → is → Director / KMP → in → CASH

g) A person is in Full time employment elsewhere

or

Individual/ Firm is crossing the "Ceiling" criteria

20

h) Convicted by court of an offence (Fraud) and 10 years has not been elapsed from such date

i) A person directly or indirectly involved in section 144

Excludes -

OPC, Small & Dormant Co.

And

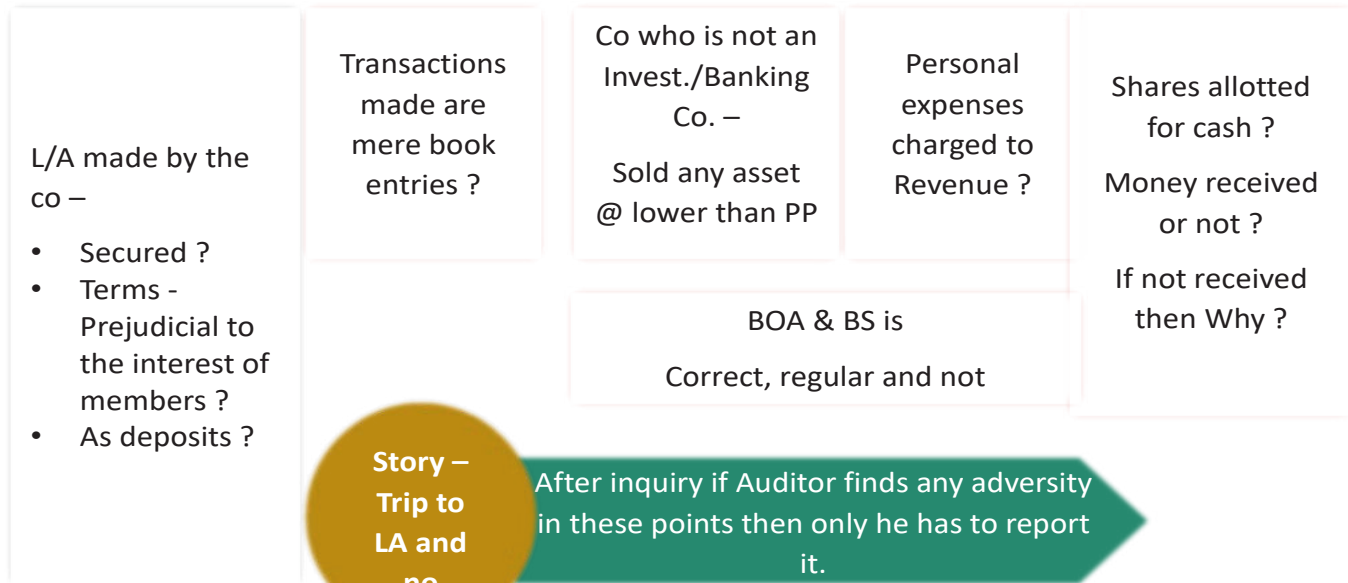
Private company :

PSC < 100 Cr

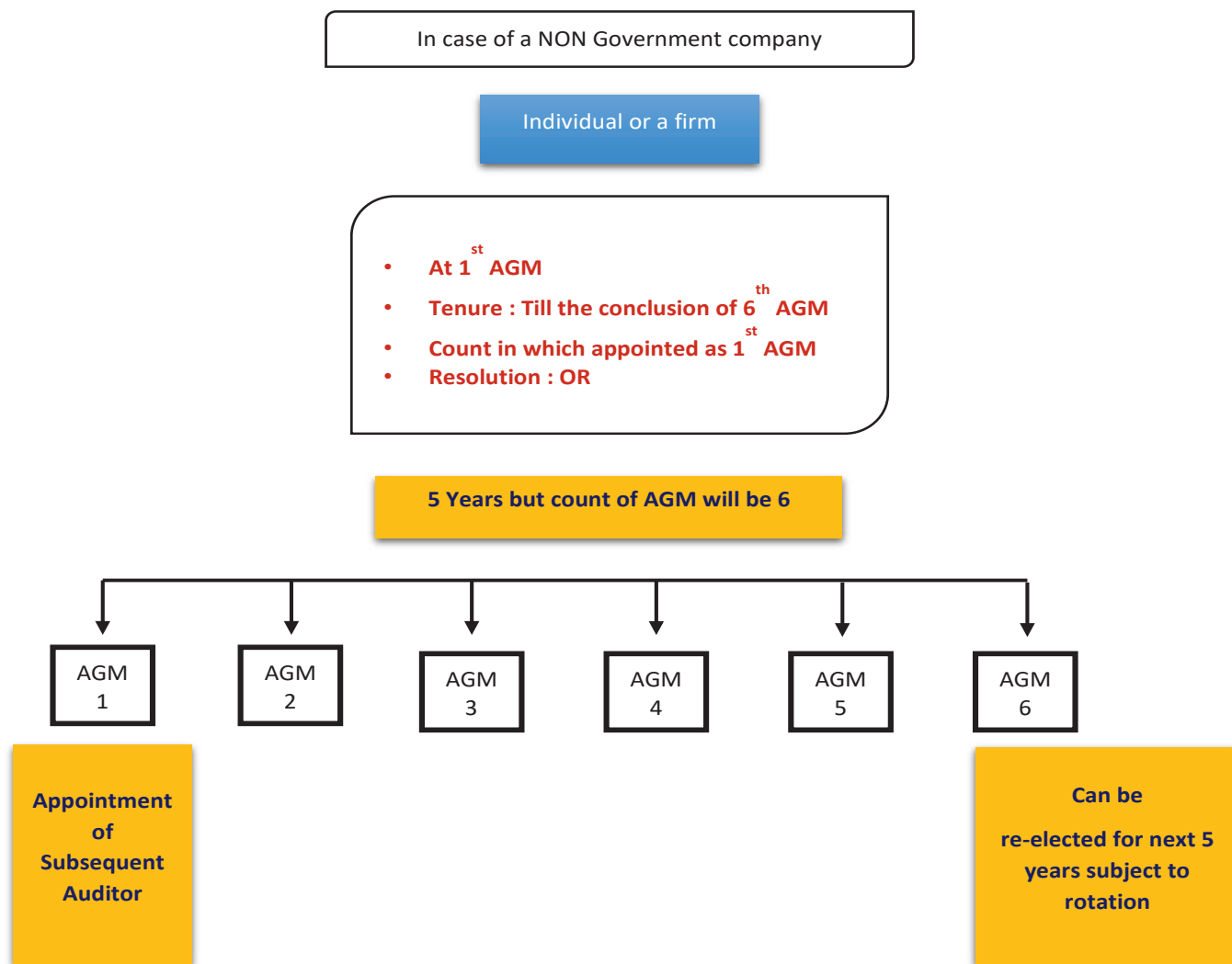
DUTIES OF AN AUDITOR - Section 143 (1)

1

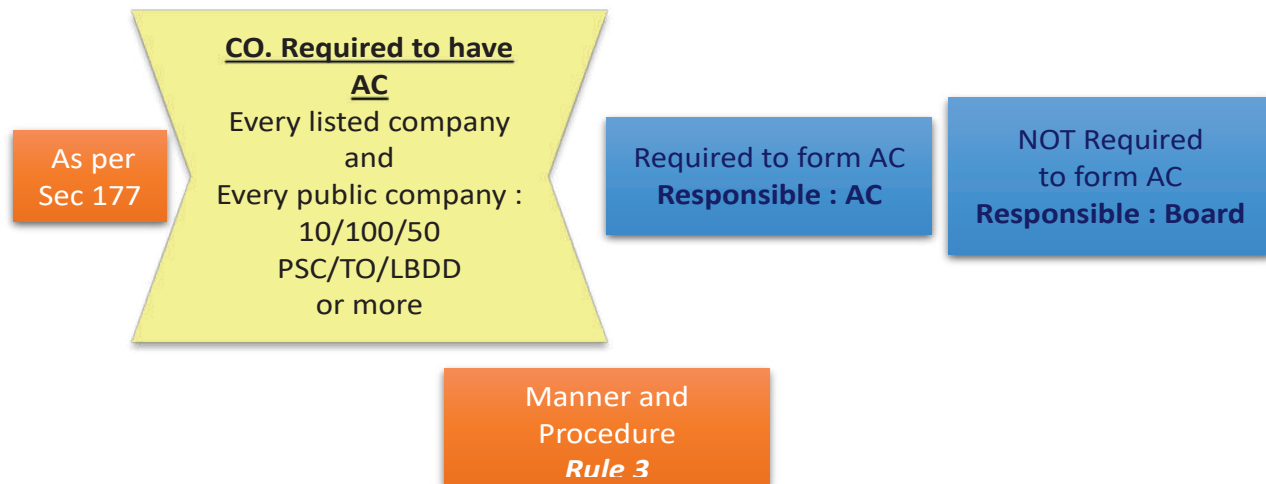
To inquire on certain matters



APPOINTMENT OF SUBSEQUENT AUDITOR AT AGM



COMPANY WITH AUDIT COMMITTEE FOR APPOINTMENT



Flow :

- AC takes into considerations like Qualification/Experience/Misconducts of a person / Firm
- Then AC recommends → Board → If Board agrees with it → Board recommends to → Members at AGM
- **If Board doesn't agree then two cases :**
- **Case 1 – Refer back to AC** – AC will reconsider & will recommend other individual of firm name
- **Case 2 – AC does not reconsider** the original recommendation then again two cases :
 - **Case 1** – Board may place original recommendation by AC to members in AGM
 - **Case 2** – Board will place its own recommendation to members in AGM

Sec. 139 - AUDITOR CERTIFICATE & COMMUNICATION

Proposed Auditor --- to --- Company

Written Consent and

Certificate that he/she is not :

- Disqualified
- Proposed appointment is as per term in the act.
- Proposed appointment is within the limits on number of audits.
- List of pending proceedings of professional misconduct.

Company --- to --- Auditor

Information regarding his appointment Within 15 days of appointment

Company --- to --- ROC

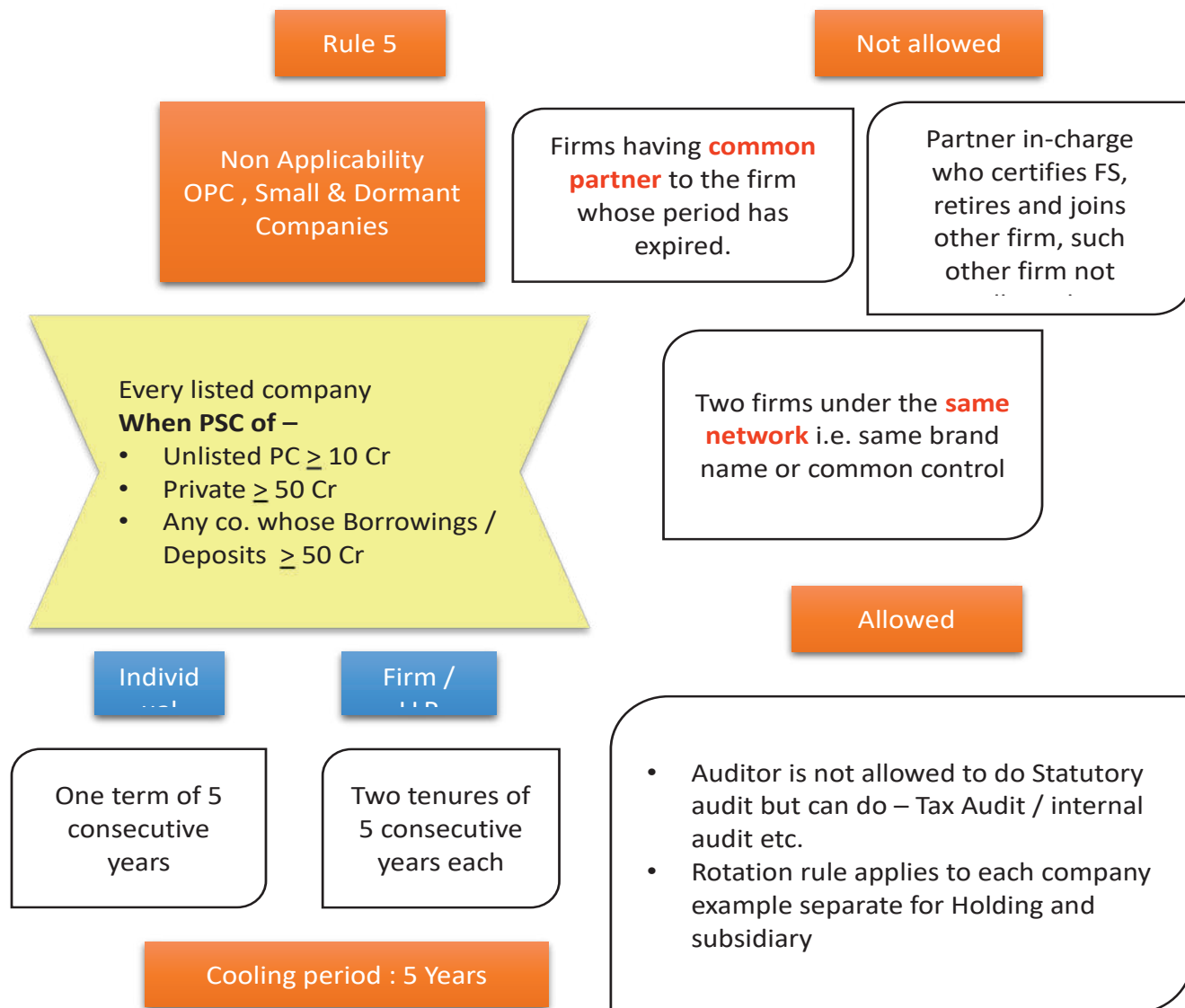
Notice of appointment (Form ADT 1) Within 15 days of appointment

- **ADT 1** – Appointment - Co to ROC 15 days
- **ADT 2** – Removal - To CG in 30 days of BR
- **ADT 3** – Resignation – Auditor to Company
- **ADT 4** – Fraud

SUMMARY OF Section 139 - APPOINTMENT

Subsequent Auditor (1)	Communication	Rotation (2)	Others (5 to 8)	Re – group
Appointment at First AGM	Auditor to Company	5 (Ind) 10 (Firm) 5 years cool	<u>S</u>uper <u>F</u>an <u>C</u>lub	(9) – Reappoint retiring Yes 4 points
Rule 3 AC - Flow	Auditor's consent	10/50/50 PSC/PSC/BD	Subsequent – 5	(10) – IF no one appointed then Old is gold
AC-Board-AGM	Certificate 4 points	UL Public/Pvt/ Others	First – 6-7	(11) – Take AC's recommendation for all appointments including CV
	Co to Auditor 15 days	Rotation (3) Rotation within the firm	Casual – 8	
	Company – ROC 15 days ADT-1	Joint Auditor	5 - 6 -7 - 8 -	

Sec. 139 - TERM AND ROTATION OF AUDITOR



Sec. 140 - REMOVAL AND RESIGNATION OF AUDITOR

Removal before expiry of the term 140(1)

Process – Mandatory SR

1. BR is required in BM
2. Application to CG in **ADT 2** within 30 days of BR
3. After CG's approval is received within 60 days - Pass SR @ GM
4. OoBH should be given (*Audi Alteram Partem*)
5. CV will be created on removal and shall be filled in the required manner

BM (BR) → 30 - CG → 60 -GM (SR)

Resignation 140(2) & (3)

Process

- Resigning auditor should file a statement within 30 days (**ADT 3**) from the date of resignation with Company and ROC.
- State reasons and other facts in the statement
- In case of Gov co – Statement to C&AG also along with Co and ROC

Penalty if auditor fails to do so :
Fine – 50,000 or remuneration Whichever is less
And 500 per day to Max 2 lacs

Sec. 140 - SUMMARY OF REMOVAL & RESIGNATION OF AUDITOR

Removal	Resignation	Special	Power of Tribunal
1	2-3	4	5
BR	Application	DHOKA	Application by Tribunal, CG
CG - ADT 2	ADT 3	Member to Company	App by CG - Will change Auditor 15 days of T's order
SR AGM	CAG, ROC and Company	SR AGM and WR by retiring auditor	Because of FRAUD
30 and 60 days	30 days	14 days	DQ for 5 years and 447

Section 148 - PROVISIONS RELATED TO COST AUDIT

When it is mandatory ?

When order by CG for such class of companies

What to maintain ?

Cost records to be maintained – Material, labour and other cost items

How to maintain ?

- Maintain in Form CRA-1 (Rule 5)
- Calculation of per unit cost of production / Sales / Operations and Margin of each product and activity for M/Q/HY/Annually.

Who has to maintain ? - Rule 3

Domestic or Foreign Company engaged in -

- TABLE A or B – Regulated or Non regulated **and**
- **Overall** T/O \geq 35 Cr in the immediately Preceding FY

For Rule 3 – Maintenance of Cost Records

- MSME excluded
- Foreign companies included

Cost Auditor's Appointment under Rule 6

- Who can audit : Cost Accountant in whole time practice – individual or Firm/LLP of cost accountant
- Cost auditor to be appointed by the company /(BOD)
- Follow – AC Flow for appointment and Remuneration (Rule 14. Get it subsequently ratified by shareholders in the meeting)
- Within 180 days of commencement of every FY

OTHER PROVISION RELATED TO COST AUDITOR

<p>In CRA-2 inform CG of Removal and filling of CV</p> <ul style="list-style-type: none"> • Removal - By BR after OoBH • CV - Filled by BOD within 30 days 	<p><u>Non Applicability of Cost Audit Rules</u></p> <p><u>But Cost records are required</u></p> <ul style="list-style-type: none"> • Whose revenue from export in FE \geq 75% of total revenue • Which is operating from a SEZ • Engaged in Electricity generation for captive consumption through captive generating plant
<p>Auditor's Tenure</p> <ul style="list-style-type: none"> • Till the expiry of 180 days from the closure of the FY • or • till he submits the cost audit report for the FY 	<p>Audit Report</p> <ul style="list-style-type: none"> • AR should be in XBRL format. • Auditor to Company – CRA-3 within 180 days • Company to CG – CRA-4 – 30 days

Problem Kya Hai? Question Bank
ICAI Module Descriptive Questions

Section 139 Appointment of Auditors

1. State the procedure for the following, explaining the relevant provisions of the Companies Act, 2013:
 - (i) Appointment of First Auditor, when the Board of directors did not appoint the First Auditor within one month from the date of registration of the company.
 - (ii) Removal of Statutory Auditor (appointed in last Annual General Meeting) before the expiry of his term.

Solution :

Section 139(6) of the Companies Act, 2013 lays down that the first auditor of a company shall be appointed by the Board of Directors within 30 days of the registration of the company.

Section 139 (6) continues to provide further that if the Board of Directors fails to appoint such auditor, it shall inform the members of the company, who shall within ninety days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting.

From the above provisions of law if the Board of Directors fails to appoint the first auditors within the stipulated 30 days, it shall take the following steps:

- a. Inform the members of the Company;
- b. Immediately take steps to convene an extra ordinary general meeting not later than 90 days;
- c. Members shall at that extra ordinary meeting appoint the first auditors of the company;
- d. The first auditors so appointed shall hold office upto the conclusion of the first AGM of the company.

(ii) Section 140 of the Companies Act, 2013 prescribes certain procedure for removal of auditors. Under section 140 (1) the auditor appointed under section 139 may be removed from his office before the expiry of his term only by a special resolution of the company, after obtaining the previous approval of the Central Government in that behalf in the prescribed manner. From this sub section it is clear that the approval of the Central Government shall be taken first and thereafter the special resolution of the company should be passed.

Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.

Therefore, in terms of section 140 (1) of the Companies Act, 2013 read with Rule 7 of the Companies (Audit & Auditors) Rules, 2014, following steps should be taken for the removal of an auditor before the completion of his term:

The application to the Central Government for removal of auditor shall be made in Form ADT-2 and accompanied with fees as provided for this purpose under the Companies (Registration Offices and Fees) Rules, 2014.

The application shall be made to the Central Government within thirty days of the resolution passed by the Board.

The company shall hold the general meeting within sixty days of receipt of approval of the Central Government for passing the special resolution.

Section 139

2. One-fourth of the subscribed capital of AMC Limited was held by the Government of Rajasthan. Mr. Neeraj, a Chartered Accountant, was appointed as an auditor of the Company at the Annual General Meeting held on 30 April, 2024 by an ordinary resolution. Mr. Sanjay, a shareholder of the company, objects to the manner of appointment of Mr. Neeraj on the ground of violation of the Companies Act, 2013. Decide whether the objection of Mr. Sanjay is tenable? Also examine the consequences of the above appointment under the said Act.

Solution :

As per the section 2(45) of the Companies Act, 2013, the holding of 25% shares of AMC Ltd. by the Government of Rajasthan does not make it a government company. Hence, it will be treated as a non-government company.

Under section 139 of the Companies Act, 2013, the appointment of an auditor by a company vests generally with the members of the company except in the case of the first auditors and in the filling up of the casual vacancy not caused by the resignation of the auditor, in which case, the power to appoint the auditor vests with the Board of Directors. The appointment by the members is by way of an ordinary resolution only and no exceptions have been made in the Act whereby a special resolution is required for the appointment of the auditors.

Therefore, the contention of Mr. Sanjay is not tenable. The appointment is valid under the Companies Act, 2013.

Section 139

3. Explain how the auditor will be appointed in the following cases:
- (i) A Government company within the meaning of section 394 of the Companies Act, 2013.
 - (ii) A public company whose shareholders include XYZ Bank (a nationalized bank) holding 18% of the subscribed capital of the company.

Solution :

- (i) The appointment and re-appointment of auditor of a Government Company or a government controlled company is governed by the provisions of section 139 of the Companies Act, 2013 which are summarized as under:

The first auditor shall be appointed by the Comptroller and Auditor General of India within 60 days from the date of incorporation and in case of failure to do so, the Board shall appoint auditor within next 30 days and on failure to do so by Board of Directors, it shall inform the members, who shall appoint the auditor within 60 days at an extraordinary general meeting (EGM), such auditor shall hold office till conclusion of first Annual General Meeting.

In case of subsequent auditor for existing government companies, the Comptroller & Auditor General of India shall appoint the auditor within a period of 180 days from the commencement of the financial year and the auditor so appointed shall hold his position till the conclusion of the Annual General Meeting.

- (ii) In the given case as the total shareholding of the XYZ Bank is just 18% of the subscribed capital of the company, it is not a government company. Hence the provisions applicable to non-government companies in relation to the appointment of auditors shall apply.

The auditor shall be appointed as follows:

- (1) The company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting.
- (2) Before such appointment of auditor is made, the written consent of the auditor to such appointment, and a certificate from him or firm of auditors that the appointment, if made, shall be obtained from the auditor:

Further, the company shall inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within 15 days of the meeting in which the auditor is appointed.

Section 141 Disqualification of Auditor

4. EF Limited appointed an individual firm, Naresh & Company, Chartered Accountants, as Auditors of the company at the Annual General Meeting held on 30 September 2023. Mrs. Kamala, wife of Mr. Naresh, invested in the equity shares face value of ₹ 1 lakh of EF Limited on 15 October 2023. But Naresh & Company continues to function as statutory auditors of the company. Advice.

Solution :

According to section 141(3)(d)(i) of the Companies Act, 2013, a person who, or his relative or partner holds any security of the company or its subsidiary or of its holding or associate company a subsidiary of such holding company, which carries voting rights, such person cannot be appointed as auditor of the company. Provided that the relative of such person may hold security or interest in the company of face value not exceeding 1 lakh rupees as prescribed under the Companies (Audit and Auditors) Rules, 2014.

In the case Mr. Naresh, Chartered Accountants, did not hold any such security. But Mrs. Kamala, his wife held equity shares of EF Limited of face value ₹ 1 lakh, which is within the specified limit.

Further Section 141(4) provides that if an auditor becomes subject, after his appointment, to any of the disqualifications specified in sub-section 3 of section 141, he shall be deemed to have vacated his office of auditor. Hence, Naresh & Company can continue to function as auditors of the company even after 15 October 2023 i.e. after the investment made by his wife in the equity shares of EF Limited.

Section 141

5. Examine the following situations in the light of the Companies Act, 2013:

“Mr. Abhi”, a practicing Chartered Accountant, is holding securities of Abhiman Ltd. having face value of ₹ 1000/-. Whether Mr. Abhi is qualified for appointment as an Auditor of Abhiman Ltd.?

Solution :

As per section 141(3)(d)(i), an auditor is disqualified to be appointed as an auditor if he, or his relative or partner holds any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company.

In the present case, Mr. Abhi is holding security of ₹ 1000 in the Abhiman Ltd, therefore, he is not eligible for appointment as an auditor of Abhiman Ltd.

Section 141

6. Examine whether the following persons are eligible for being appointed as auditor under the provisions of the Companies Act, 2013:
- (i) "Mr. Prakash" is a practicing Chartered Accountant and "Mr. Aakash", who is a relative of "Mr. Prakash" is holding securities of "ABC Ltd." having face value of ₹ 70,000/- (market value ₹ 1, 10,000/-). Directors of ABC Ltd. want to appoint Mr. Prakash as an auditor of the company.
 - (ii) Mr. Ramesh is a practicing Chartered Accountant indebted to MNP Ltd. for rupees 6 lakh. Directors of MNP Ltd. want to appoint Mr. Ramesh as an auditor of the company.
 - (iii) Mrs. KVJ spouse of Mr. Kumar, a Chartered Accountant, is the store keeper of PRC Ltd. Directors of PRC Ltd. want to appoint Mr. Kumar as an auditor of the company

Solution :

- (i) As per section 141 (3)(d)(i) of the Companies Act, 2013, an auditor is disqualified to be appointed as an auditor if he, or his relative or partner holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company. Further as per proviso to this Section, the relative of the auditor may hold the securities or interest in the company of face value not exceeding of ₹ 1,00,000. In the present case, Mr. Aakash (relative of Mr. Prakash, an auditor), is having securities of ABC Ltd. having face value of ₹ 70,000 (market value ₹ 1,10,000), which is within the limit as per requirement of under the proviso to section 141 (3)(d)(i). Therefore, Mr. Prakash will not be disqualified to be appointed as an auditor of ABC Ltd.
- (ii) As per section 141(3)(d)(ii), an auditor is disqualified to be appointed as an auditor if he or his relative or partner is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of rupees 5 Lakh. In the instant case, Mr. Ramesh will be disqualified to be appointed as an auditor of MNP Ltd. as he indebted to MNP Ltd. for rupees 6 Lakh.
- (iii) As per section 141(3)(f), an auditor is disqualified to be appointed as an auditor if a person whose relative is a director or is in the employment of the company as a director or a key managerial personnel. In the instant case, since Mrs. KVJ Spouse of Mr. Kumar (Chartered Accountant) is the store keeper (not a director or KMP) of PRC Ltd., hence Mr. Kumar will not be disqualified to be appointed as an auditor in the said company.

Section 144 Auditor not to Render Certain Services

7. The Board of Directors of A Limited requested its Statutory Auditor to accept the assignment of designing and implementation of suitable financial information system to strengthen the internal control mechanism of the company. How will you approach to this proposal, as a Statutory Auditor of A Ltd., taking into account the consequences, if any, of accepting this proposal?

Solution :

According to section 144 of the Companies Act, 2013, an auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be. But such services shall not include designing and implementation of any financial information system.

In the said instance, the Board of directors of A Ltd. requested its Statutory Auditor to accept the assignment of designing and implementation of suitable financial information system to strengthen the internal control mechanism of the company. As per the above provision said service is strictly prohibited.

In case the Statutory Auditor accepts the assignment, he will attract the penal provisions as specified in Section 147 of the Companies Act, 2013.

In the light of the above provisions, we shall advise the Statutory Auditor not to take up the above stated assignment.

RTP, MTP and PYQ Descriptive Questions

Section 139 Appointment of Auditors

1. PKC Ltd., wants to appoint Mr. Praveen Kumar, a practicing Chartered Accountant as the statutory auditor of the company and asked the proposed auditor to give a certificate in this regard. What are the contents of the certificate to be issued in accordance with the Companies (Audit & Auditors Rules, 2014)?

(MAY 2018)

Solution :

As per proviso to section 139(1) of the Companies Act, 2013, before the appointment is made, a written consent of the auditor to such appointment, and a certificate from him or it that the appointment, if made, shall be in accordance with the conditions as may be prescribed, shall be obtained.

The Companies (Audit and Auditors) Rules, 2014 provides the content of the Certificate. According to this, the auditor appointed shall submit a certificate that –

- (a) the individual or the firm, as the case may be, is eligible for appointment and is not disqualified for appointment under the Act, the Chartered Accountants Act, 1949 and the rules or regulations made thereunder;
- (b) the proposed appointment is as per the term provided under the Act;
- (c) the proposed appointment is within the limits laid down by or under the authority of the Act;
- (d) the list of proceedings against the auditor or audit firm or any partner of the audit firm pending with respect to professional matters of conduct, as disclosed in the certificate, is true and correct.

The certificate shall also indicate whether the auditor satisfies the criteria provided in section 141.

Conclusion: Mr. Praveen Kumar, the proposed auditor has to give the above certificate to the company before accepting the appointment as the auditor of PKC Ltd.

Section 139

2. Mr. Ramchandra is a partner and in-charge (and certifies financial statements) of A & Associates. The firm is appointed as an auditor firm of Badri Limited (listed company). Mr. Ramchandra retires from A & Associates and after some time join Gupta & Gupta firm as a partner, on 20/05/24. In the general meeting of Badri Limited held on 15/06/24, the company appointed Gupta & Gupta firm as next auditor of the company. Advise Badri Limited, whether the company has adhered to the provision of the Company Act, 2013, by appointing Gupta & Gupta as auditor for the company?

(MTP Jan 25)

Solution :

Law: According to section 139(2) of the Companies Act, 2013, no listed company or a company belonging to such class or classes of companies as may be prescribed i.e. All companies (excluding one person companies & small companies), which are

- a. Unlisted public companies and having paid up share capital of rupees ten crore or more;
- b. Private limited companies and having paid up share capital of rupees fifty crore or more;
- c. Having public borrowings from financial institutions, banks or public deposits of rupees fifty crore or more.

shall appoint or re-appoint—

- (i) an individual as auditor for more than one term of five consecutive years; and
- (ii) an audit firm as auditor for more than two terms of five consecutive years.

Provided that –

- (i) an individual auditor or audit firm who has completed his term shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;
- (ii) as on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years.
- (iii) As per Explanation II in Rule 6(3) of the Companies (Audit and Auditors) Rules, 2014, if a partner, who is in charge of an audit firm and also certifies the financial statements of the company, retires from the said firm and joins another firm of chartered accountants, such other firm shall also be ineligible to be appointed during cooling period of five years.

Conclusion:

Here, Mr. Ramchandra has retired from A & Associates and joined Gupta & Gupta Firm. Mr. Ramchandra was a partner, in-charge Associates (and certifies the financial statement of the company) in A & Associates. He retires from A & Associates and joins Gupta & Gupta firm.

As per the facts of the question and provisions of law, Gupta & Gupta Firm will also be ineligible, to be appointed as auditor of Badri Limited (listed company) for a period of 5 years.

Section 139

3. M/s Sharma & Associates is an audit firm with two partners, Mr. Sharma and Mr. Raj. Mr. Raj is also a partner in another audit firm, M/s Mehta & Associates. M/s Sharma & Associates was appointed as the statutory auditor for Bright Future Ltd. (listed company, on which provisions related to rotation of auditor apply) for two consecutive terms of 5 years each, from 2017 to 2027.

If Bright Future Ltd. now wants to appoint M/s Mehta & Associates as its audit firm, can it do so? If not, when will the restriction be lifted?

(RTP May 25)

Solution :

Law: Law similar to Q no 2 above

Conclusion: Bright Future Ltd. cannot appoint M/s Mehta & Associates as its auditor immediately after the completion of M/s Sharma & Associates' tenure.

Since Mr. Raj is a common partner in both firms, regulatory provisions impose a cooling-off period of 5 years before either of these firms can be reappointed.

Therefore, Bright Future Ltd. can appoint M/s Mehta & Associates or M/s Sharma & Associates only after the cooling-off period ends in the year 2032.

Section 139

4. Lemon & Company, Chartered Accountants a Limited Liability Partnership firm with CA. L, CA. M and CA. N as partners, is the statutory auditor of a listed company M/s Big Limited for past 6 years as on 01.04.2014.

CA.M is also a partner in other Chartered Accountant firm Dew & Company, Chartered Accountants. Advise under the provisions of the Companies Act, 2013 :

- (i) Upto how many years can Lemon & Company continue as statutory auditors of M/s Big Limited?
- (ii) What shall be the cooling-off period for Lemon & Company with respect to M/s Big Limited?
- (iii) Can Dew & Company; be appointed as statutory auditors of M/s Big Limited and it's another listed subsidiary M/s Dark Limited during such cooling-off period?
- (iv) Can Lemon & Company be appointed as internal auditors of M/s Big Limited and it's another listed subsidiary M/s Dark Limited, during such cooling-off period?(RTP NOV 2018)

(NOV 2018)(MTP Sept 24)

Solution :

Law: Law similar to Q no 2

Conclusion:

- (i) Lemon & Company can continue as statutory auditors of M/s Big Limited for 4 more years from 1.4.2014, i.e. they can continue in office only till 31.3.2018.
- (ii) The cooling- off period shall be of 5 years.
- (iii) Dew & Company cannot be appointed as a statutory auditor of M/s Big Limited during the cooling – off period of Lemon & Company, as CA. M is the common partner in both Lemon & Company and Dew & Company. However, Dew & Company can be appointed as a statutory auditor of M/s Dark Limited (a listed subsidiary of M/s Big Limited), during the cooling – off period.
- (iv) As per Section 138 (1) of the Companies Act, 2013, every listed company and other prescribed class of companies, shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional (which may be either an individual or a partnership firm or a body corporate) as may be decided by the Board to conduct internal audit of the functions and activities of the company. Accordingly, M/s Lemon & Company can be appointed as an internal auditors of M/s Big Limited and in its subsidiary M/S Dark Limited (a listed company). The provision of cooling off period as given under Section 139 of the Companies Act, 2013, shall not be applicable on the Internal auditors.

Section 139

5. Sohan Lal was appointed as the statutory auditor of RST Ltd., a non- government company at the Annual General Meeting held on 30th September, 2023. He has resigned after two months as he wanted to discontinue the practice and surrendered his Certificate of Practice and joined a multinational company.Explain how the new auditor will be appointed by RST Ltd. and the conditions to be complied with in this regard.

(PYQ Jan 2025)

Solution :**Law:**

Filling Up Casual Vacancy [Section 139(8)]

Any vacancy arising in the office of the auditor due to any reason except on the expiry of his term is known as a casual vacancy.

As per section 139(8) of the Companies Act, 2013 (the Act), the Board of Directors (other than a Government Company) has power to fill casual vacancy in the office of the auditor within 30 days.

In case of casual vacancy due to the resignation of the auditor, such appointment shall be approved by the company by passing an ordinary resolution at a General Meeting convened within three months of the recommendation of the Board.

Any auditor so appointed in a casual vacancy shall hold office until the conclusion of the next annual general meeting.

Appointment of auditors to fill casual vacancy shall be made after taking into account the recommendation of the Audit Committee, (if any). [Section 139(11)].

Written and signed consent and certificate shall be obtained from the auditor stating the appointment shall be in accordance with the conditions as may be prescribed under Rule 4 of the Companies (Audit and Auditors) Rules, 2014 and satisfies the criteria provided in Section 141 of the Act. The Company shall inform the auditor concerned of his or its appointment.

Compliances:

As per section 140(2) and (3) of the Act read with Rule 8 of Companies (Audit and Auditors) Rules, 2015, the resigning auditor shall file Form ADT-3 with the company and the Registrar of Companies (ROC) along with valid reasons within 30 days of the date of resignation.

The company shall file a notice of appointment in Form ADT-1 with the ROC within fifteen days of the meeting in which the auditor is so appointed.

The new auditor appointed under Rule 3 shall submit a certificate that:

- (i) the individual or the firm, as the case may be, is eligible for appointment and is not disqualified for appointment under sections 139, 141, and other applicable provisions of the Companies Act, 2013, the Chartered Accountants Act, 1949 and the rules or regulations made thereunder;
- (ii) A written consent to act as the auditor.
- (iii) the proposed appointment is within the limits laid down by or under the authority of the Act;
- (iv) The list of proceedings against the auditor or audit firm or any partner of the audit firm pending with respect to professional matters of conduct, as disclosed in the certificate, is true and correct.
- (v) The new auditor must communicate with the resigning auditor to ensure there are no professional or ethical concerns.

Conclusion:

Thus, the Statutory Auditor can be appointed as per the procedure mentioned above.

Section 139

6. Rupa Limited, a listed company appointed M/s. VG & ASSOCIATES an audit firm as Company's auditor in the Annual General Meeting held on 30-09-2017. Explain the provisions of the Companies Act, 2013 relating to the appointment or reappointment of an auditor in relation to the tenure of an auditor.

(MAY 2018)**Solution :**

Law: Law similar to Q 2 above except last point

Conclusion: In terms of the above provisions, Rupa Limited, which is a listed company, can appoint M/S VG & ASSOCIATES an audit firm, for a term of 5 years, i.e. from the conclusion of the AGM held on 30.09.2017 to the conclusion of the AGM to be held in the year 2022. Now, in terms of Section 139(2), since M/S VG & ASSOCIATES is an audit firm, it can be re-appointed as auditor for one more term of five years, i.e., up to the conclusion of the AGM to be held in 2027.

Section 139

7. One-fourth of the subscribed capital of AMC Limited was held by the Government of Rajasthan. Mr. Vikas, a Chartered Accountant, was appointed as an auditor of the Company at the Annual General Meeting held on 30th April, 2020 by an ordinary resolution. Mr. Mukesh, a shareholder of the Company, objects to the manner of appointment of Mr. Vikas on the ground of violation of the Companies Act, 2013. Decide whether the objection of Mr. Mukesh is tenable? Also examine the consequences of the above appointment under the said Act.

(MTP NOV 2020)(module)**Solution :****Law:**

- (i) According to section 2(45) of the Companies Act, 2013, "Government company" means any company in which not less than 51% of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company.
- (ii) According to sec 139 Auditor of government company is appointed by CAG whereas in non-government company power to appoint vests generally with the members of the company

Conclusion:

As per the section 2(45) of the Companies Act, 2013, the holding of 25% shares of AMC Ltd. by the Government of Rajasthan does not make it a government company. Hence, it will be treated as a non-government company. Therefore, the contention of Mr. Mukesh is not tenable. The appointment is valid under the Companies Act, 2013.

Section 139

8. Maya Limited is a public company. Maharashtra Bank (a nationalized bank) is a shareholder holding 18% of the subscribed capital of the company. Explain how the following shall be appointed:
- (i) First auditor
 - (ii) Subsequent auditor

(6 Marks) (MTP M 21)**Solution :**

- (i) According to section 2(45) of the Companies Act, 2013, "Government company" means any company in which not less than 51% of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company.
- (iii) In the given case, the total shareholding of the Maharashtra Bank in Maya Limited, is just 18% of the subscribed capital of the company. Hence, Maya Limited is not a government company. Hence, the provisions applicable to non-government companies in relation to the appointment of auditors shall apply.
- (iii) Appointment of First Auditor of non government company
According to section 139(6) of the Companies Act, 2013, the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within 30 days from the date of registration of the company and in the case of failure of the Board to appoint such auditor, it shall inform the members of the company, who shall within 90 days at an extraordinary general meeting appoint such auditor and such auditor shall hold office till the conclusion of the first annual general meeting.
- (iv) Appointment of Subsequent Auditor of non government company u/s 139(5) The company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting.
Further, the company shall inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within 15 days of the meeting in which the auditor is appointed.

Section 139

9. Shiv Limited is incorporated on 3.10.2020. The company is having a paid- up share capital of Rs. 5 crores. Following are key shareholders of the company:
The first auditor of the company has been appointed by the Board of Directors on 31.10.2020. The members of the company have objected to such an appointment by the Board of Directors. According to the members it's only the members who can appoint the first auditor.
Advise the company on the validity of such appointment as per the provisions of the Companies Act, 2013. Also, advise whether the contention of members of the company is correct.

(6 Marks) (MTP M 21)

Solution :

Law: According to section 2(45) of the Companies Act, 2013, "Government company" means any company in which not less than 51% of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company.

As per section 139(7), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within 60 days from the date of registration of the company and in case the Comptroller and Auditor - General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next 30 days; and in the case of failure of the Board to appoint such auditor within the next 30 days, it shall inform the members of the company who shall appoint such auditor within the 60 days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting .

Conclusion: In the given question, Shiv Limited is a government company as 54.6% $[(1.5+1.23)/5= 54.6\%]$ of the share capital is held by Central government and State Government (Punjab Government). Thus, the first auditor of Shiv Limited shall be appointed by the Comptroller and Auditor-General of India within 60 days from the date of registration. Thus, the appointment of first auditor by Board of Directors on 31.10.2020 is not valid. The Board of Directors can appoint the first auditor in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period of period 60 days. The Board of Directors of the company shall appoint such auditor within the next 30 days.

In the case of failure of the Board to appoint such auditor within the next 30 days, it shall inform the members of the company who shall appoint such auditor within 60 days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting. Thus, the contention of members that it's only the members who can appoint the first auditor of the Government company, is not correct.

Section 139

10. The auditor of ABC Limited (not a government company) has resigned on 31st December, 2023, while the Financial year of the company ends on 31st March, 2024. Explain how such an auditor shall be appointed, as per the provisions of the Companies Act, 2013.

(MTP Jan 25) (MTP NOV 2019)

Solution :

Solution: Casual Vacancy due to resignation

Under section 139 (8)(i) any casual vacancy in the office of an auditor arising as a result of his resignation, such vacancy can be filled by the Board of Directors within 30 days thereof and in addition the appointment of the new auditor shall also be approved by the company at a general meeting convened within three months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting.

Section 139

11. Shivam Limited is incorporated on 1.1.2020. The company wants to appoint its first auditor. Please enumerate to the company the relevant provisions of the Companies Act, 2013 with respect to the appointment of first auditor.

(3 Marks)(MTP M 21)

Solution :

According to section 139(6) of the Companies Act, 2013,

- (i) the first auditor of a company, other than a Government Company, shall be appointed by the Board of directors within 30 days of the date of registration of the company and the auditor so appointed shall hold office until the conclusion of the first AGM.
- (ii) If the Board fails to exercise its powers i.e. appointment of first auditor, it shall inform the members of the company and the company may appoint the first auditor within 90 days at an extra ordinary general meeting (EGM) and such auditor shall hold office till the conclusion of the first AGM.

Section 139

12. The Board of Directors of Moon Light Limited, a listed company appointed Mr. Tel, Chartered Accountant as its first auditor within 30 days of the date of registration of the Company to hold office from the date of incorporation to conclusion of the first Annual General Meeting (AGM). At the first AGM, Mr. Tel was re-appointed to hold office from the conclusion of its first AGM till the conclusion of 6th AGM. In the light of the provisions of the Companies Act, 2013, examine the validity of appointment/ re-appointment in the following cases:

- (i) Appointment of Mr. Tel by the Board of Directors.
- (ii) Re-appointment of Mr. Tel at the first AGM in the above situation.
- (iii) In case Mr. Bell, Chartered Accountant, was appointed as auditor at the first AGM to hold office from the conclusion of its first AGM till the conclusion of 5th AGM. ie., 4 years tenure.

(6 Marks)(Nov 2020)

Solution :

Law: As per section 139(6) of the Companies Act, 2013, the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and such auditor shall hold office till the conclusion of the first annual general meeting.

Whereas Section 139(1) of the Companies Act, 2013 states that every company shall, at the first annual general meeting (AGM), appoint an individual or a firm as an auditor of the company who shall hold office from the conclusion of 1st AGM till the conclusion of its 6th AGM and thereafter till the conclusion of every sixth AGM.

As per section 139(2), no listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint an individual as auditor for more than one term of five consecutive years.

Conclusion: As per the given provisions following are the answers:

- (i) Appointment of Mr. Tel by the Board of Directors is valid as per the provisions of section 139(6).
- (ii) Appointment of Mr. Tel at the first Annual General Meeting is valid due to the fact that the appointment of the first auditor made by the Board of Directors is a separate appointment and the period of such appointment is not to be considered, while Mr. Tel is appointed in the first Annual General Meeting, which is for the period from the conclusion of the first Annual General Meeting to the conclusion of the sixth Annual General Meeting.
- (iii) As per law, auditor appointed shall hold office from the conclusion of 1st AGM till the conclusion of its 6th AGM i.e., for 5 years. Accordingly, here appointment of Mr. Bell, which is for 4 years, is not in compliance with the said legal provision, so his appointment is not valid.

Section 140 Removal of Auditor

13. Mr. Honest, an auditor of MM company Ltd. has colluded with the company for a fraud. The Central Government has applied to Tribunal about the said fraud by Mr. Honest. State the provisions of the Companies Act, 2013 regarding the steps that can be taken by Tribunal when it finds that the auditor of a company has acted in a fraudulent manner.

(MTP NOV 2018)

Solution :

Removal of Auditor by Tribunal [Section 140(5) of the Companies Act, 2013]

- (i) On satisfaction of Tribunal that the auditor of a company has acted in a fraudulent manner etc.: Without prejudice to any action under the provisions of this Act or any other law for the time being in force, the Tribunal either suo moto or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors.
- (ii) Requirement for change of auditor: If the application is made by the Central Government and the Tribunal is satisfied that any change of the auditor is required, it shall within fifteen days of receipt of such application, make an order that he shall not function as an auditor and the Central Government may appoint another auditor in his place.
- (iii) whether individual or firm, against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of 5 years from the date of passing of the order & the auditor shall also be liable for action u/s 447.

Section 140

14. Mr. Suresh, a Chartered Accountant, was appointed by the Board of Directors of AB Limited as the First Auditor. The company in General Meeting removed Mr. Suresh without seeking the approval of the Central Government and appointed Mr. Gupta as Auditor in his place?

(MTP NOV 2018)

Solution :

Law: Section 140(1) stipulates that any auditor appointed under section 139 may be removed from office before the expiry of his term by passing special resolution in general meeting, after obtaining the previous approval of the Central Government in that behalf.

Provided that before taking any action under subsection (1) of Section 140, the auditor concerned shall be given a reasonable opportunity of being heard.

Conclusion: The first auditors appointed by Board of Directors can be removed in accordance with the provision of Section 140(1) of the Companies Act, 2013. Hence, the removal of the first auditor appointed by the Board without seeking approval of the Central Government is invalid. The company contravened the provision of the Act.

Section 140

15. ABC & Associates, a firm of Chartered Accountants was re-appointed as auditors at the Annual General Meeting of X Ltd. held on 30-09-2022. However, the Board of Directors recommended to remove them before expiry of their term by passing a resolution in the Board Meeting held on 31-03-2023.

Subsequently, having given consideration to the Board recommendation, ABC & Associates were removed at the general meeting held on 25-05-2023 by passing a special resolution but without obtaining approval of the Central Government. Examine the validity of removal of ABC & Associates by X Ltd. under the provisions of the Companies Act, 2013.

(MTP May 24) (MTP Oct. 23)

Solution :

Law: Section 140 of the Companies Act, 2013 prescribes procedure for removal of auditors. Under section 140 (1) the auditor appointed under section 139 may be removed from his office before the expiry of his term only by a special resolution of the company, after obtaining the previous approval of the Central Government in that behalf in the prescribed manner.

From this sub section it is clear that the approval of the Central Government shall be taken first and thereafter the special resolution of the company should be passed.

Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.

Conclusion: Hence, in the instant case, the decision of X Ltd. to remove ABC & Associates, auditors of the company at the general meeting held on 25-5-2023, is not valid. The approval of the Central Government shall be taken before passing the special resolution in the general meeting.

Section 141 Disqualification of Auditor

16. Examine the following situations in the light of the Companies Act, 2013:

- (i) Mr. Prem, a Chartered Accountant, has been appointed as an auditor of A Limited in the Annual General Meeting of the company held in September 2023, in which he accepted the assignment. Subsequently, in January 2024 he joined as a partner in the consultancy firm where Mr. Ajay is also a partner. Mr. Ajay is also working as a Finance Executive of A Limited.
- (ii) Mr. Tom, a practicing Chartered Accountant, holds securities in B Limited with a face value of ₹ 1,00,000. Considering this, can Mr. Tom be appointed as the auditor of B Limited, or does his holding disqualify him from the role?

(MTP Jan 25)(MTP Nov 24)

Solution :**Law:**

- (i) Section 141(3)(c) of the Companies Act, 2013 prescribes that any person who is a partner or in employment of an officer or employee of the company will be disqualified to act as an auditor of a company. Section 141(4) provides where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in section 141(3) after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a casual vacancy in the office of the auditor.
- (ii) As per section 141(3)(d)(i), an auditor is disqualified to be appointed as an auditor if he, or his relative or partner holds any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company.

Conclusion:

- (i) In the present case, Mr. Prem, an auditor of A Limited, joined as partner with consultancy firm where Mr. Ajay has become a partner and Mr. Ajay is also the Finance executive of A Limited. Hence, Mr. Prem has attracted clause (3)(c) of section 141 and, therefore, he shall be deemed to have vacated office of the auditor of A Limited.
- (ii) In the present case, Mr. Tom is holding security of ₹ 1,00,000 in the B Limited, therefore, he is not eligible for appointment as an auditor of B Limited.

17. P Limited appointed "XYZ & Co.", an audit firm, as Auditor of the company at the Annual General Meeting held on 30th September, 2021. Mr. X, Y and Z are partners in XYZ & Co. With reference to the Companies Act, 2013, examine, the validity of appointment of the XYZ & Co. in each of the following cases separately:

- (i) Mrs. Q, wife of Mr. X has invested in the equity shares of P Limited having face value of ₹1 lakh.
- (ii) Mrs. Q, wife of Mr. X has given guarantee in relation to a loan taken by G from P Limited of an amount worth ₹ 1,50,000.
- (iii) Mrs. Q, wife of Mr. X is indebted to Z Limited for ₹10,00,000 (P Limited holds one fourth of the paid-up Equity Share Capital of Z Ltd.)

(PYQ Nov 2022)

Solution :

- (i) As per Section 141(3)(d)(i) of the Companies Act, 2013, a person who, or his relative or partner is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company, such person cannot be appointed as auditor of the company. However, the relative of such person may hold security or interest in the company of face value not exceeding 1 lakh rupees as prescribed under Rule 10 of the Company (Audit and Auditors) Rules, 2014.
- (ii) As per Section 141(3)(d)(iii) of the Companies Act, 2013, a person who, or his relative or partner who has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹ 1 Lakh. such person cannot be appointed as auditor of the company.
- (iii) As per Section 141(3)(d)(ii) of the Companies Act, 2013, a person who, or his relative or partner is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹ 5 Lakh, shall not be appointed as an auditor.

Conclusion:

- (i) Here, in the given case, Mrs. Q, wife of Mr. X has invested in the equity shares of P Limited having face value of ₹ 1 lakh which is within the prescribed limit. Therefore XYZ & Co. can be appointed as an auditor for P Limited.
- (ii) In the said case, Mrs. Q, wife of Mr. X, has given guarantee in relation to a loan taken by G from P Limited which is in excess of ₹ 1 Lakh i.e. of an amount worth ₹ 1,50,000. Therefore, XYZ & Co. cannot be appointed as an auditor for P Limited.
- (iii) Here in this case, Mrs. Q, wife of Mr. X is indebted to Z Limited for ₹ 10,00,000. Whereas P Limited holds one fourth of the paid up equity share capital of Z Ltd. Being an associate company to P Limited, and indebted in excess of ₹ 5 Lakh, therefore XYZ & Co. cannot be appointed as an auditor for P Limited.

Section 141

18. Assess the eligibility of the following individuals for appointment as Auditors in accordance with the regulations outlined in the Companies Act, 2013:

- (i) Chintamani is a practicing Chartered Accountant, and his spouse, Chitrlekha, holds securities of Nagmani Ltd. valued at a face value amount of ₹ 80,000 (with a market value of ₹ 50,000). The directors of Nagmani Ltd. are considering the appointment of Chintamani as an auditor for the company.
- (ii) Mani, the real sister of Mr. Priyanshu, a Chartered Accountant, holds the position of CFO at Parivar Ltd. The directors of Parivar Ltd. are considering the appointment of Mr. Priyanshu as an auditor for the company. (MTP Sept 24)(Nov 2023)

(3 Marks)(MTP M 21)

Solution :**Law:**

- (i) As per section 141(3)(d)(i) of the Companies Act, 2013, an auditor is disqualified to be appointed as an auditor if he, or his relative or partner holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company. Further the proviso provides that, the relative of the auditor may hold the securities or interest in the company of face value not exceeding of ₹ 1,00,000.
- (ii) As per section 141(3)(f), an auditor is disqualified to be appointed as an auditor if a person whose relative is a director or is in the employment of the company as a director or a Key Managerial Personnel.

Conclusion:

- (i) In the present case, Chitralkha (spouse of Chintamani, the auditor), is having securities of Nagmani Limited having face value of ₹ 80,000, which is within the prescribed limits under the proviso to section 141(3)(d)(i). Therefore, Chintamani will be eligible to be appointed as an auditor of Nagmani Limited.
- (ii) In the instant case, since Mani, real sister of Mr. Priyanshu (Chartered Accountant) is the CFO (a KMP) of Parivar Ltd., hence, Mr. Priyanshu will be disqualified to be appointed as an auditor in the said company.

Section 141

19. XYZ Ltd., a prominent manufacturing company, is in the process of appointing a new auditor for the upcoming financial years. Mr. A is a renowned auditor being considered for the role. During the due diligence process, the following details come to light:

1. Mr. B and Mr. A are partners in ABC & Co. Mr. B has taken a personal loan of ₹ 4 Lacs from XYZ Ltd.'s subsidiary, EFG Ltd., six months ago.
2. Mr. A's relative, Ms. C, has an outstanding debt of ₹ 2 Lacs with DEF Ltd., an associate company of XYZ Ltd., which was taken three months ago.

Discuss about the eligibility of Mr. A for being appointed as an auditor of XYZ Ltd. in view of the provisions of the Companies Act, 2013.

(RTP Sept 24)

Solution :

Law: According to section 141(3)(d)(ii) of the Companies Act, 2013, an auditor is disqualified to be appointed as an auditor if he or his relative or partner is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹ 5 Lacs.

Conclusion: In this scenario:

1. Mr. A's partner, Mr. B, has a debt of ₹ 4 Lacs from EFG Ltd., a subsidiary of XYZ Ltd.
 2. Mr. A's relative, Ms. C, has a debt of ₹ 2 Lacs from DEF Ltd., an associate company of XYZ Ltd.
- The total indebtedness linked to Mr. A's partner and relative is ₹ 6 Lacs (₹ 4 Lacs + ₹ 2 Lacs), which exceeds the ₹ 5 Lacs threshold mentioned in the provision.

Therefore, Mr. A is disqualified from being appointed as the auditor of XYZ Ltd. under section 141(3)(d)(ii) of the Companies Act, 2013, as the combined indebtedness of his partner and relative surpasses the permissible limit.

Section 141

20. Mrs. Sita, wife of CA. 'Arjun' the statutory auditor of Stellar Builders Limited, acquired shares in the company for a face value of ₹75000/- on 15th March, 2018. CA. 'Arjun', issued his audit report on 25th April, 2018. Examine the validity of this transaction under the Companies Act, 2013. Would your answer be different if face value of the shares have been ₹ 150000/- (market value ₹ 95000/-)?

(RTP NOV 2018) (NOV 2018)**Solution :**

Law: As per Section 141(3)(d)(i) of the Companies Act, 2013, a person who, or his relative or partner is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company, shall not be appointed as an auditor of the company.

However, Rule 10 of the Companies (Audit and Auditors) Rules, 2014, states that a relative of an auditor may hold securities in the company of face value not exceeding rupees one lakh.

Conclusion: 1 In the given case Mrs. Sita, wife of CA. Arjun acquired shares in Stellar Builders Limited, in which he was a statutory auditor on 15th March, 2018. Since, the securities held by Mrs. Sita is within the prescribed limit of ₹ 1 lakh, such a transaction is valid.

2 Yes, the answer will be different in case where the face value of acquired shares is ₹ 1,50,000. Then in that case:

- (i) Corrective action to maintain the limit specified (i.e., 1 lac) shall be taken by the auditor within 60 days of such acquisition, or
- (ii) Auditor has to vacate his office.

Section 141

21. Assess the eligibility of the following individuals for appointment as Auditors in accordance with the regulations outlined in the Companies Act, 2013:

- (i) 'Ms. Rekha', a practicing Chartered Accountant, and 'Mr. Alok', who is the spouse of 'Ms. Rekha', holds securities of 'Charcoal Ltd.' valued at a face value amount of ₹ 85,000 (with a market value of ₹ 75,000). The directors of Charcoal Ltd. are considering the appointment of 'Ms. Rekha' as an auditor for the company.
- (ii) 'Mr. Puri', a practicing Chartered Accountant, has a debt of ₹ 7 lakh owed to RAI Ltd. The directors of RAI Ltd. are considering the appointment of 'Mr. Puri' as an auditor for the company.
- (iii) 'Ms. Komal', the real sister of 'Mr. Sharad', a Chartered Accountant, holds the position of CFO at Biotech Ltd. The directors of Biotech Ltd. are considering the appointment of 'Mr. Sharad' as an auditor for the company.

(PYQ Nov 2023)

Solution :**Law:**

As per section 141(3)(d)(i) of the Companies Act, 2013, an auditor is disqualified to be appointed as an auditor if he, or his relative or partner holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company. Further as per proviso to this section, the relative of the auditor may hold the securities or interest in the company of face value not exceeding of ₹ 1,00,000.

Conclusion:

- (i) In the present case, Mr. Alok (spouse of Ms. Rekha, the auditor), is having securities of Charcoal Limited having face value of ₹ 85,000, which is within the limit as per requirement of under the proviso to section 141(3)(d)(i). Therefore, Ms. Rekha will be eligible to be appointed as an auditor of Charcoal Limited.
- (ii) As per section 141(3)(d)(ii), an auditor is disqualified to be appointed as an auditor if he or his relative or partner is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of rupees 5 lakh. In the instant case, Mr. Puri will be disqualified to be appointed as an auditor of RAI Limited as he is indebted to RAI Limited for ₹ 7 lakh.
- (iii) As per section 141(3)(f), an auditor is disqualified to be appointed as an auditor if a person whose relative is a director or is in the employment of the company as a director or a Key Managerial Personnel. In the instant case, since Ms. Komal, real sister of Mr. Sharad (Chartered Accountant) is the CFO (a KMP) of Biotech Limited, hence Mr. Sharad will be disqualified to be appointed as an auditor in the said company.

Section 141

22. ABC & Co.' is an Audit Firm having partners "Mr. A", "Mr. B" and "Mr. C", Chartered Accountants. "Mr. A", "Mr. B" and "Mr. C" are holding appointment as an Auditor 4, 6 and 10 Companies respectively.

1. Provide the, maximum number of Audits remaining in the name of "ABC & Co."
2. Provide the maximum number of Audits remaining in the name of individual partner i.e. Mr. A, Mr. B and Mr. C.
3. Can ABC & Co. accept the appointment as an auditor in 60 private companies having paid-up share capital less than 100 Cr., which has not committed default in filing its financial statements u/s 137 or annual return u/s 92 of Companies Act with the Registrar, 2 small companies and 1 dormant company?
4. Would your answer be different, if out of those 60 private companies, 45 companies are having paid-up share capital of 110 crore each?

[MTP-Oct. 20]

Solution :

Law: As per Section 141(3) (g) of the Companies Act, 2013

Person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such person or partner is at the date of such appointment or reappointment holding appointment as auditor of more than 20 companies; other than one person companies, dormant companies, small companies & private companies] having paid-up share capital less than ₹100 crores;

Conclusion:

In present case,

1. ABC & Co. can hold appointment as an auditor of 40 more companies as computed below:
 Total Number of Audits available to the Firm = $20 \times 3 = 60$ Number of Audits already taken by all the partners
 In their individual capacity = $4 + 6 + 10 = 20$
 Remaining number of Audits available to the Firm = 40
2. Mr. A can hold: $20 - 4 = 16$ more audits. Mr. B can hold $20 - 6 = 14$ more audits and Mr. C can hold $20 - 10 = 10$ more audits.
3. ABC & Co. can hold appointment as an auditor in all the 60 private companies having paid-up share capital less than 100 crore, 2 small companies and 1 dormant company as these are excluded from the ceiling limit of company audits given under section 141(3) (g) of the Companies Act, 2013.
4. ABC & Co. can accept the appointment as an auditor for 2 small companies, 1 dormant company, 15 private companies having paid-up share capital less than 100 crore and 40 private companies having paid-up share capital of 110 crore each in addition to above 20 company audits already holding.

Section 142 Remuneration of Auditor

23. HD Software Limited is engaged in the business of providing software services. The company appointed its statutory auditors (not the first auditor). The Board of directors of the company informed the auditor that the fees shall be fixed by the Board of directors only. But the auditor objected to the same. Now the directors have approached you to advise them whether they can solely fix the remuneration of the auditor.

(RTP Jan 25)(PYQ May 2022)

Solution :

Law: Section 142 of the Companies Act, 2013, provides for remuneration of auditors. According to this section the remuneration of the auditors of a company shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine. However, the Board may fix remuneration of the first auditor appointed by it.

The remuneration shall, in addition to the fee payable to an auditor, include the expenses, if any, incurred by the auditor in connection with the audit of the company and any facility extended to him but does not include any remuneration paid to him for any other service rendered by him at the request of the company.

Conclusion: As per the facts of the question and stated provision, remuneration of the appointed statutory auditors of a company shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine as they are not the first auditor.

Hence, the contention of the Board of directors that they can fix the remuneration of the auditor on their own is not valid.

Section 142

24. Yellow Private Limited is engaged in the business of manufacturing premium quality rattle toys. They have a huge market for their toys all over India. The company has appointed its statutory auditors for the financial year 2022-2023. The engagement letter of the auditors was signed with a clause that fee to be mutually decided. Directors of the company have approached you to seek your advice for provisions related to remuneration of auditors as per the provisions of the Companies Act, 2013.

(RTP Nov 23)

Solution :

Law: Same as above

Conclusion: As per the facts of the question and stated provision, remuneration of the appointed statutory auditors of a company shall be fixed by Yellow Private Limited in general meeting or in such manner as the company in general meeting may determine , they may also delegate their powers to BOD

Section 144 Auditor not to Render Certain Services

25. The Board of Directors of Avni Ltd. requested its Statutory Auditor to accept the assignment of designing and implementation of suitable financial information system to strengthen the internal control mechanism of the Company. How will you approach to this proposal, as a Statutory Auditor of Avni Ltd., taking into account the consequences, if any, of accepting this proposal?

(MTP Sept 24)

Solution :

Law: According to section 144 of the Companies Act, 2013, an auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be. But such services shall not include designing and implementation of any financial information system.

Conclusion:

In the said instance, the Board of directors of Avni Ltd. requested its Statutory Auditor to accept the assignment of designing and implementation of suitable financial information system to strengthen the internal control mechanism of the company. As per the above provision said service is strictly prohibited.

In case the Statutory Auditor accepts the assignment, he will attract the penal provisions as specified in Section 147 of the Companies Act, 2013.

In the light of the above provisions, we shall advise the Statutory Auditor not to take up the above stated assignment.

Section 145 Auditor to sign Audit report

26. State the provisions of the Companies Act, 2013 regarding the signing of the Audit report by the Auditors of the company.

(MTP MAY 2018)**Solution :**

Section 145 of the Companies Act, 2013 provides for auditors to sign audit reports, etc. According to this section:

- (i) The person appointed as an auditor of the company shall sign the auditor's report or sign or certify any other document of the company in accordance with the provisions of sub-section (2) of section 141 (i.e. in case of firm including LLP, only Chartered Accountants are authorised to act and sign).
- (ii) The qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

Section 147 Punishment for Contravention

27. ABC & Co., Chartered Accountants, are statutory auditors of Moon Exports Limited. In an inquiry, it is proved that 'A', one of the partners of the firm has acted in fraudulent manner and colluded in fraud to its partners. Explain the consequences of such act under the provisions of the Companies Act, 2013.

(PYQ May 2022)**Solution :**

Law: According to section 147(5) of the Companies Act, 2013, where, in case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.

Provided that in case of criminal liability of an audit firm, in respect of liability other than fine, the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable.

Conclusion:

Here, 'A' the partner of ABC & Co. on inquiry was found that he acted in a fraudulent manner or colluded in fraud to its partners.

Accordingly, 'A' the partner, partners concerned and the firm 'ABC & Co.' jointly and severally liable for the fine.

With respect to criminal liability of the firm 'ABC & Co.', the concerned partner or partners, who acted in a fraudulent manner or colluded in any fraud, shall only be liable.