

Synopsis of DRAFT COMPANIES (AUDITOR'S REPORT) ORDER, 2016 *[Personal & Private Circulation bearing no opinion or advice]*

Short title, application and commencement:

- This Order may be called the Companies (Auditor's Report) Order, 2016.
- It shall apply to every company as defined in section 2 (42) of the Companies Act, 2013 except:
 - a banking company;
 - an insurance company;
 - a company licensed under section 8 of the Companies Act;
 - a One Person Company as defined under section 2 (62) of the Companies Act and a Small Company as defined under section 2 (85) of the Companies Act; and
 - a private limited company, not being a subsidiary or holding of a public company, having a paid up capital and reserves and surplus less than Rs. 1 crore as at the balance sheet date and which have total borrowings less than Rs. 1 crore from any bank or financial institution at any point of time during the financial year and which have total revenue less than Rs. 1 crore during the financial year as per the financial statements.
- It shall come into force once notified in the Official Gazette.

Auditor's report to contain matters specified in paragraphs 3 and 4:

- For Financial Year starting after 01.04.2015, Paragraph 3 and 4 of the Auditor's report made under section 143 shall contain the matter specified in this Order, on every company on which this CARO shall apply. Provided the Order shall not apply to the auditor's report on consolidated financial statements.

Matters to be included in the auditor's report:

The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:

- (i) (a) Whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets;
- (b) Whether these fixed assets have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;
- (c) Whether title deeds of immovable properties are held in the name of the company. If not, provide details thereof.
- (ii) Whether physical verification of inventory has been conducted at reasonable intervals by the management and whether any material discrepancies were noticed and if so, how they have been dealt with in the books of account;
- (iii) Whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered by clause (76) of Section 2 of the Companies Act, 2013. If so,

(a) Whether the terms and conditions of the grant of such loans are not prejudicial to the company's interest;

(b) Whether receipt of the principal amount and interest are regular. If not provide details thereof; and

(c) If overdue amount is more than rupees five lakhs, whether reasonable steps have been taken by the company for recovery of the principal and interest;

(iv) In respect of loans, investments and guarantees, whether provisions of Section 185 and 186 of the Companies Act, 2013 have been complied with. If not, provide details thereof.

(v) in case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act, 2013 and the rules framed thereunder, where applicable, have been complied with? If not, the nature of such contraventions be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?

(vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 and whether such accounts and records have been so made and maintained;

(vii) (a) whether the company is regular in depositing undisputed statutory dues including provident fund, employees' state insurance, income-tax, sales-tax, , service tax, duty of customs, duty of excise, value added tax, and any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.

(b) Where dues of income tax or sales tax or service tax or duty of customs or duty of excise or value added tax have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (A mere representation to the concerned Department shall not be treated as a dispute).

(viii) Whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported (in case of banks and financial institutions, lender wise details to be provided).

(ix) Whether moneys raised by way of public issue/ follow-on offer (including debt instruments) and term loans were applied for the purposes for which those are raised. If not, the details together with delays / default and subsequent rectification, if any, as may be applicable, be reported;

(x) 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 be indicated.

(xi) Whether managerial remuneration has been paid / provided in accordance with the requisite approvals mandated by the provisions of section 197 read with schedule V to the Companies Act? If not, state the amount involved and steps taken by the company for securing refund of the same. Whether the Nidhi Company has complied with the Net Owned Fund in the ratio of 1: 20 to meet out the liability and whether the Nidhi Company is maintaining 10% liquid assets to meet out the unencumbered liability.

(xiii) Whether all transactions with the related parties are in compliance with Section 188 and 177 of Companies Act, 2013 where applicable and the details have been disclosed in the Financial Statements etc as required by the accounting standards and Companies Act, 2013.

(xiv) Whether the company has made any preferential allotment / private placement of shares or fully or partly convertible debentures during the year under review and if so, as to whether the requirement of Section 42 of the Companies Act, 2013 have been complied and the amount raised have been used for the purposes for which the funds were raised. If not, provide details thereof.

(xv) 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.

Reasons to be stated for unfavourable or qualified answers:

- Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.
- Where the auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same.

Disclaimer: *This document contains the views and analysis of the author regarding the mentioned amendment Act and it is for personal and private circulation and not bearing any opinion or advice.*

Prepared By:

Mohit Gupta,

B Com. (Hons.), FCA, LLB,

Alumni Rajdhani College (DU)

Alumni Law Centre 2, Law Faculty (DU)

For any query and feedback, please write to mohit@gmrindia.com