

3. Duty to give reasons for qualifications	▪ The manner in which qualifications are made in the auditor's report should be such as not to leave any room for doubt in the minds of the public. A qualification should give full information and not merely create grounds for suspicion of enquiry. ▪ The auditor should quantify, wherever possible, the effect of the qualifications on the financial statements, if the same is material. ▪ Where it is not possible to precisely quantify the effect of the qualification, he may use the management estimates or may state the reason for not quantifying the effect of the qualification.
4. Duty to sign the audit report (Sec. 229)	The audit report or any other document required to be signed or authenticated by the auditor may be signed by – (a) a person appointed as an auditor of the company; (b) where a firm is appointed as an auditor, by a partner of the firm practicing in India

9.13 AUDIT OF ACCOUNTS OF BRANCH OFFICE

(Sec. 228)

1. Meaning of branch office	(a) Any establishment described as a branch by the company. (b) Any establishment carrying on either the same or substantially the same activity as that carried on by the head office. (c) Any establishment engaged in any production, processing or manufacture [Sec. 2(9)].
2. Qualifications of branch auditor	(a) The company's auditor as appointed u/s 224. (b) Any person qualified to be appointed as an auditor u/s 226. (c) Where the branch office is situated in a foreign country, any person duly qualified to act as an auditor in such foreign country may also be appointed as an auditor.
3. Appointment of branch auditor	(a) Appointment may be made by the members in GM. (b) Alternatively, the shareholders may authorise the Board to make the appointment of branch auditor in consultation with company's auditor.
4. Powers and duties of branch auditor	A branch auditor has the same powers and duties as that of company's auditor.
5. Rights of company's auditor	Where the accounts of any branch office are audited by a person other than the company's auditor, the company's auditor has the following rights: (a) Right to visit the branch office, if he deems it necessary to do so for the performance of his duties as auditor. (b) Right of access at all times to the books, accounts and vouchers of the company maintained at the branch office.
6. Remuneration of branch auditor	(a) The remuneration shall be fixed by the members in GM. (b) Alternatively, the GM may authorise the Board to fix the remuneration.
7. Report of branch auditor	▪ Report shall be prepared in accordance with Sec. 227. ▪ Report shall be prepared in accordance with CARO. ▪ Report shall be forwarded to the company's auditor. ▪ The company's auditor, while preparing his report, shall deal with the report of the branch auditor in such manner as he deems fit.

9.14

EXEMPTION FROM BRANCH AUDIT

[Sec. 228(4)]

1. Exemption from branch audit is available only if the amount calculated in Step 2 is not more than amount calculated in Step 3 <i>Step 1. Calculate 'quantum of activity'. The quantum of activity means the highest of the following:</i> (i) Aggregate value of goods produced or manufactured or processed at the branch office. (ii) Aggregate value of goods sold and services rendered by the branch office. (iii) Aggregate value of expenditure, whether of revenue or capital nature, incurred by the branch office. <i>Step 2. Calculate average of 'quantum of activity' by taking average of the quantum of activity during 3 FYs immediately preceding the relevant FY.</i> <i>Step 3. Calculate the higher of the following two limits:</i> (i) Rs. 2 lakhs; and (ii) 2% of the average of the total turnover of the company including all its branch offices, earnings from services rendered and earnings from any other source.	(a) Any manufacturing, processing or trading activity is carried on at the branch office. (b) The exemption is available only if the amount calculated in Step 2 is not more than amount calculated in Step 3 <i>Step 1. Calculate 'quantum of activity'. The quantum of activity means the highest of the following:</i> (i) Aggregate value of goods produced or manufactured or processed at the branch office. (ii) Aggregate value of goods sold and services rendered by the branch office. (iii) Aggregate value of expenditure, whether of revenue or capital nature, incurred by the branch office. <i>Step 2. Calculate average of 'quantum of activity' by taking average of the quantum of activity during 3 FYs immediately preceding the relevant FY.</i> <i>Step 3. Calculate the higher of the following two limits:</i> (i) Rs. 2 lakhs; and (ii) 2% of the average of the total turnover of the company including all its branch offices, earnings from services rendered and earnings from any other source.																		
2. Exemption in branch audit	Conditions for claiming exemption: <table border="1"> <tr> <td>Discretion of CG</td><td>Exemption may be given for a specified period and subject to conditions.</td></tr> <tr> <td>Withdrawal of exemption by CG</td><td>CG may withdraw the exemption if the terms and conditions of exemption are not complied with.</td></tr> <tr> <td>Submission of a copy of exemption order</td><td>A copy of exemption order shall be submitted to the company auditor.</td></tr> <tr> <td>Reading of exemption order</td><td>It shall be the duty of the auditor to read the exemption order at the GM.</td></tr> <tr> <td>Grounds for exemption</td><td>Additional conditions for claiming exemption</td></tr> <tr> <td>(a) Company has made sufficient arrangements for scrutiny and check of accounts of branch office</td><td> - Company is not carrying on manufacturing, processing or trading activities; and - Scrutiny and check shall be made by a responsible person. Such person is competent to scrutinise and check the accounts. </td></tr> <tr> <td>(b) A branch auditor is not likely to be available at a reasonable cost</td><td>CG shall pay due regard to the nature and quantum of activity carried on at the branch office.</td></tr> <tr> <td>(c) Company has made arrangements for the audit of accounts of branch office</td><td>Audit shall be done by a person otherwise qualified for appointment as a branch auditor, except that he is an employee of the company.</td></tr> <tr> <td>(d) For any other reason</td><td>CG is satisfied that exemption should be granted.</td></tr> </table>	Discretion of CG	Exemption may be given for a specified period and subject to conditions.	Withdrawal of exemption by CG	CG may withdraw the exemption if the terms and conditions of exemption are not complied with.	Submission of a copy of exemption order	A copy of exemption order shall be submitted to the company auditor.	Reading of exemption order	It shall be the duty of the auditor to read the exemption order at the GM.	Grounds for exemption	Additional conditions for claiming exemption	(a) Company has made sufficient arrangements for scrutiny and check of accounts of branch office	- Company is not carrying on manufacturing, processing or trading activities; and - Scrutiny and check shall be made by a responsible person. Such person is competent to scrutinise and check the accounts.	(b) A branch auditor is not likely to be available at a reasonable cost	CG shall pay due regard to the nature and quantum of activity carried on at the branch office.	(c) Company has made arrangements for the audit of accounts of branch office	Audit shall be done by a person otherwise qualified for appointment as a branch auditor, except that he is an employee of the company.	(d) For any other reason	CG is satisfied that exemption should be granted.
Discretion of CG	Exemption may be given for a specified period and subject to conditions.																		
Withdrawal of exemption by CG	CG may withdraw the exemption if the terms and conditions of exemption are not complied with.																		
Submission of a copy of exemption order	A copy of exemption order shall be submitted to the company auditor.																		
Reading of exemption order	It shall be the duty of the auditor to read the exemption order at the GM.																		
Grounds for exemption	Additional conditions for claiming exemption																		
(a) Company has made sufficient arrangements for scrutiny and check of accounts of branch office	- Company is not carrying on manufacturing, processing or trading activities; and - Scrutiny and check shall be made by a responsible person. Such person is competent to scrutinise and check the accounts.																		
(b) A branch auditor is not likely to be available at a reasonable cost	CG shall pay due regard to the nature and quantum of activity carried on at the branch office.																		
(c) Company has made arrangements for the audit of accounts of branch office	Audit shall be done by a person otherwise qualified for appointment as a branch auditor, except that he is an employee of the company.																		
(d) For any other reason	CG is satisfied that exemption should be granted.																		

9.15 SPECIAL AUDIT**(Sec. 233A)**

1. Circumstances in which special audit may be ordered	CG is of an opinion that – (a) the affairs of the company are not being managed in accordance with sound business principles or prudent commercial practices; <i>or</i> (b) the company is being managed in a manner likely to cause serious injury or damage to the interests of the trade, industry or business to which it pertains; <i>or</i> (c) the financial position of the company is such as to endanger its solvency.	
2. Period of special audit	Special audit shall be conducted for such period as may be specified in the order of CG	
3. Appointment of special auditor	▪ Special auditor shall be appointed by CG. ▪ The person appointed to conduct the special audit shall be – (a) company's auditor; <i>or</i> (b) any other CA (whether or not he is in practice).	
4. Powers and duties	Special auditor shall have same powers and duties as that of a company's auditor.	
5. Directions by CG	CG may direct any person to furnish to the special auditor such information as may be required by him.	
6. Report of special auditor	Submission of report	The special auditor shall submit his report to CG.
	Action by CG	On receipt of report, CG may take such action, as it deems fit.
8. Remuneration of special auditor	• Remuneration shall be determined by CG. • Such determination shall be final.	

9.16 COST AUDIT**(Sec. 233B)**

1. Cost audit – When required?	(a) The company is compulsorily required to maintain cost records as per Sec. 209(1)(d); <i>and</i> (b) CG has issued a direction to the company to conduct a cost audit.	
2. Qualifications of cost auditor	(a) Cost accountant; <i>or</i> (b) CA, possessing the prescribed qualifications, if CG is of the opinion that – sufficient number of cost accountants are not available for conducting the cost audit; <i>and</i> a notification is issued to this effect.	
3. Disqualifications of a cost auditor	(a) A person disqualified to act as a statutory auditor u/s 226. (b) The statutory auditor of the company.	
4. Vacation of office	The cost auditor shall vacate his office if after appointment, any of the disqualifications are attracted to him.	
5. Appointment of cost auditor	The cost auditor shall be appointed by the Board. The appointment of cost auditor requires previous approval of CG.	
6. Ceiling on number of audits	Time of giving certificate	The auditor shall, before appointment, give a certificate of his eligibility to be appointed as cost auditor.
	Requirements of certificate	The certificate shall state that the appointment, if made, will be within the ceiling on number of audits as specified u/s 224(1B).

7. Powers and duties of cost auditor	The cost auditor shall have same powers and duties as that of a company's auditor (given u/s 227).	
8. Cost audit report	Submission of report	The cost auditor shall submit a report to CG and the company. The report shall be submitted <i>within 180 days</i> of close of FY.
	Reply by the company	▪ The company shall furnish to CG full information and explanations on every reservation or qualification contained in cost audit report. ▪ The reply shall be submitted <i>within 30 days</i> from the date of receipt of cost audit report.
	Calling of further information	CG may call further information from the company. The company shall furnish the information required by CG within the time specified by CG.
	Action by CG	CG may take such action as it deems fit.
9. Duties of the company	(a) Give all facilities and assistance to the cost auditor. (b) Submit cost records to the cost auditor <i>within 30 days</i> of the close of FY.	

OBJECTIVE TYPE QUESTIONS

Comment whether following are True or False:

(1) If an auditor purchases goods from client worth Rs. 1500 on credit he can't be said to be disqualified if selling goods on credit is normal business activity of client.

FALSE ⇒ If an auditor purchases on credit goods of a value exceeding Rs. 1000, he shall be indebted to the company and consequently he shall vacate the office of the auditor held by him. It is immaterial that the credit period allowed to the auditor is allowed to all the customer in the ordinary course of business.

(2) First auditor can be appointed by inclusion of their name in articles.

FALSE ⇒ The only method of appointment of first auditors is as laid down in Sec. 224. Therefore the auditors of a newly formed company cannot be appointed through the memorandum or association.

(3) Subsequent auditor needs to give notice to ROC.

TRUE ⇒ The auditor shall give notice to the register. Such notice shall be given within 30 days of receipt of notice of appointment or reappointment from the company. The notice shall state as to whether he has accepted or refused the appointment.

(4) If AGM is not held in time, auditor automatically vacates his office.

FALSE ⇒ The auditor holds office from the conclusion of the meeting in which they are appointed to the conclusion of the next AGM as such the appointment of auditors is made in terms of this period and not for any FY. Therefore an auditor shall continue in his office even if AGM is not held within the time limits.

Section 224A the material date for reckoning 25% capital is date of AGM.

TRUE ⇒ Sec. 224A must be complied with if the shareholding of institutions specified u/s 224A is –
 - less than 25% as on the date of despatch of notice of AGM but,
 - the shareholding exceeds to 25% or more as on the date of AGM.

(6) Statutory auditor has certain rights w.r.t branch office of client company as well.

TRUE ⇒ If the accounts of any branch office are audited by a person other than companies auditor, then statutory auditor has right to visit the branch office and to access at all times to the books, accounts and vouchers of the company maintained at the branch office.

(7) The right of lien is not un-conditional.

TRUE ⇒ conditions are

- (a) The book must belong to the company;
- (b) The document must have come into the possession of auditors with the authority of the Board;
- (c) The auditor has done work assigned to him on such documents; &
- (d) Such of the books can be retained which are connected with the work on which fees has not been paid.

(8) Auditor must send audit report to every member of company.

FALSE ⇒ It is the duty of the auditors to make a report to the members. However he is not required to send his report to every member.

(9) Auditor should use uniform regular font throughout his audit report.

FALSE ⇒ The observation or comments of the auditors which have any advance effect on the functioning of the company should be in thick type or in italics so as to attract reader's attention.

(10) Auditor should try to quantify the effect of qualification in his audit report.

TRUE ⇒ The auditor should quantify wherever possible the effect of the qualification on the financial statements if the same is material. Where it is not possible to quantify the effect of the qualification, he may use management estimates or may state the reason for not quantifying the effect on the qualification.

(11) Remuneration of branch auditor is fixed by statutory auditors of company.

FALSE ⇒ The remuneration shall be fixed by the members in GM. Alternatively the GM may authorise the Board to fix the remuneration.

(12) The special auditor appointed under section 233A must be in practice.

FALSE ⇒ Special auditor shall be appointed by CG. The person appointed to conduct the special audit shall be-

- (a) Company's auditor
- (b) Any other C.A. (whether or not he is in practice)

(13) Cost auditor can be a cost accountant or a chartered accountant.

TRUE ⇒ Cost auditors should be

- (a) Cost accountant or,
- (b) CA possessing the prescribed qualifications if CG is of the opinion that sufficient number of cost accountants are not available for conducting the cost audit and a notification is issued to this effect.

(14) Cost auditor is appointed by members of company in AGM by passing ordinary resolution.

FALSE ⇒ The cost auditors shall be appointed by the Board. Moreover, the appointment of cost auditor requires previous approval of CG.

PRACTICAL PROBLEMS**2002 – Nov**

Ram and Hanuman Associates, Chartered Accountants in practice have been appointed as Statutory Auditor of Krishna Ltd. for the accounting year 2002. Mr. Hanuman holds 100 equity shares of Shiva Ltd, a subsidiary company of Krishna Ltd.

Answer:

1. U/s 226 of The Companies Act, 1956, a person is not qualified for appointment as an auditor, who is holding any security of the company. Here, security means an instrument, which carries voting rights.
2. Further, a person is not eligible for appointment an auditor of any company, if he is disqualified from acting as an auditor of any other body corporate, which is either
 - A holding company, or
 - Subsidiary company, or
 - A co-subsidiary company.
3. A firm will be disqualified as an auditor if any of its partners is so disqualified.
4. In the case, Mr. Hanuman, C.A, a partner of Ram and Hanuman associates, holds 100 equity those of Shiva Ltd., which is a subsidiary of Krishna Ltd.
5. Thus, the firm, Ram & Hanuman associates would be disqualified for appointment as statutory auditor of Krishna Ltd, which is the holding company of Shiva Ltd.

2003 – May

M/s Verma and Sharma, Chartered Accountants were appointed as the first auditors of Good Luck Ltd. by virtue of their name being included as auditors in the Articles of Association.

Answer :

1. U/s 224 (5) of Companies Act, 1956, the first auditors of the company shall be appointed by the board of directors in a board meeting, within one month from the date of incorporation or registration.
2. If they fail to do so, then the company may appoint the first auditor in a general meeting by passing an ordinary resolution.
3. An auditor cannot be appointed as first auditor simply because his name has been stated in the articles of association.
4. In this case, M/s Verma and Sharma, chartered accountants, were appointed as the first auditors of Good Luck Ltd. by virtue of their name being stated as auditors in the articles of association, but it is not as per the companies act.

Hence, the appointment of M/s Verma & Sharma is not valid, as no resolution was passed to appoint them either in the Board meeting or in the general meeting.

2003 – Nov.

At the AGM of a company, in which a Nationalised Bank held 25% of the subscribed capital, Krishna & Co Chartered Accountants, were appointed as auditor by passing an ordinary resolution.

Answer:

1. U/s 224(A), a company whose not less than 25% of the subscribed capital is held by some specific institutions or a nationalized bank or an insurance company carrying out general insurance business, shall appoint an auditor in an AGM only by passing a special resolution.
2. In the present case, the nationalized bank held 25% of the subscribed capital which is as per the prescribed limit, the appointment of the auditor has been made by passing an ordinary resolution which is incorrect & hence, not valid.
3. In present case, as per law, a special resolution is required for such an appointment.
4. Thus it is treated as if no auditor has been appointed at AGM and now the appointment shall be made by Central government.

Nov. 2003 The shareholding of nationalised bank increased from 23% to 27% of the subscribed share capital of the company after issue of notice of the annual general meeting. Explain how will the appointment of auditors be made.

Ans.

1. *A special resolution is required for appointment of auditor if not less than 25% of the subscribed share capital is held by –*
 - CG
 - SG
 - A Government Company
 - Public Financial Institution
 - Any financial or other institution established by any State Act in which SG holds not less than 51% of the subscribed share capital
 - A nationalised bank
 - An insurance company carrying on general insurance business
2. The material date to determine whether Sec. 224A is attracted, is the date of AGM.
3. *In other words, Sec. 224A must be complied with if the shareholding of institutions specified u/s 224A is – less than 25% as on the date of despatch of notice of AGM; but the share holding exceeds to 25% or more as on the date of AGM.*
4. Thus, in present case, appointment of auditor shall be done by passing special resolution.

Question

No Annual General Meeting (AGM) was held for the year ended 31 March, 2005, in XYZ Ltd. Ninu is the auditor for the previous year, whether she is continuing to hold office for current year or not.

Ans.

1. Companies are required to appoint auditor in the AGM as an ordinary business.
2. The office of auditor in a company is a continuing one. He shall hold office from the conclusion of AGM in which he is appointed till the conclusion of next AGM.
3. Where the AGM is not held, the auditors continue to hold office till such date the AGM is actually held.
4. The tenure of an auditor appointed u/s 224 will continue till the factual conclusion of next AGM and not on the last day on which such AGM is due to be conducted.
5. In the present case, AGM was not held for year ended 31 March 2005 in XYZ Ltd. So, Ninu will continue to hold office for the current year so long till the AGM is actually held.

2000 – May

An auditor purchased goods worth Rs. 1,500 on credit from a company being audited by him. The company allowed him the same credit, which it normally allowed to all known customers.

Answer:

1. U/S 226(3), a person who is indebted to the company for an amount exceeding Rs. 1000 shall be disqualified for appointment as an auditor.
2. This is because financial obligation will affect the independence of the company auditor.
3. In this case, auditor purchases goods from company being audited by him and hence becomes indebted to it.
4. The goods are of worth Rs. 1,500 which exceeds the prescribed limit of Rs. 1000.
5. Thus, he is disqualified for appointment as an auditor of the company irrespective of fact that credit period allowed to him is same as enjoyed by other customers of the company.

2000 – Nov

Prakash, a member of the Institute of Chartered of India, does not hold a Certificate of practice. If his appointment as an auditor of a company valid?

Answer:

1. As per section 226(1) a person shall be qualified for appointment as an auditor of a company, only if he is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 and also holds the certificate of practice.
2. In the given case, Prakash who is a member of the Institute of Chartered Accountants of India, does not hold a certificate of practice.
3. As Prakash does not hold a certificate of practice, he cannot be appointed as an auditor.

2004 – May

PQR & Co. a firm of Chartered Accountants has three partners, P, Q and R. P is also in whole time employment elsewhere. The firm is already holding audit of 40 companies including audit of one foreign company. The firm is offered the audit of Z Ltd. and its 20 branches. (5 marks)

Answer:

1. U/s 224(IB), the ceiling limit is 20 company audit per person. Out of these, not more than 10 shall be in respect of companies having paid up capital of Rs. 25 lakhs or more.
2. In case of Partnership firms, the ceiling limit shall be 20 company audits per partner who is not in full - time employment elsewhere.
3. Audit of a branch of company and that of a foreign company is not included in computation of the ceiling.
4. In PQR & Co., P is in whole time employment elsewhere; hence he will be excluded in computing the ceiling.
5. Thus, total number of company audits that can be accepted by PQR & Co. is 40 (i.e. 2 x 20) presuming all companies are public companies, out of which not more than 20 companies have paid-up share capital of Rs 25 lakhs or more.
6. Right now they are having 39 audits as foreign company is not to be considered.
7. Thus, PQR & Co. can accept audit of Z Ltd. and its 20 branches, which will be considered as one assignment only, making total audits as 40 which is well within the limit specified U/s 224(IB) of the companies act, 1956.

Question

Due to the resignation of the existing auditor(s), the Board of Directors of X Ltd. appointed Mr. Hari as the auditor. Is the appointment of Hari as auditor valid?

Answer :

1. The resignation of the existing auditors leads to casual vacancy.
2. U/S 224(6), the company at a general meeting shall appoint an auditor to fill up a casual vacancy arising out of resignation.
3. In this case, the appointment of Mr. Hari, as an auditor, by the board of directors, is not proper as per the Sec 224(6).
4. Hence, appointment of Mr. Hari as auditor is not valid.

2001 — May

At an Annual General Meeting, Mr. R a retiring auditor claims that he has been reappointed automatically, as the intended resolution of which a notice had been given to appoint Mr. P, could not be proceeded with, due to Mr. P's death.

Answer :

1. A specific resolution is required to re-appoint the auditors.
2. Till a formal resolution is passed, a retiring auditor cannot be re-appointed automatically at the AGM. Further, in absence of resolution to the effect, a re-appointment of retiring auditor can be made.
3. But Sec. 224(2) provides that a retiring auditor cannot be re-appointed, if a notice has been given of an intended resolution to appoint person (s), in the place of the retiring auditor and by reason of death, incapacity or disqualification of that person (s) the intended resolution cannot be proceeded with.
4. In the present case also, a notice has been served for an intended resolution to appoint Mr. P, but it could not be proceeded with due to P's death.
5. Moreover, Mr. R, the retiring auditor claims for automatic re-appointment, which is not possible, because passing of a resolution, is essential for the appointment of an auditor.
6. Hence, the claim of Mr. R. is not valid.

2006 -Nov.

Managing Director of PQR Ltd. himself wants to appoint Shri Ganpati, a practicing Chartered Accountant, as first auditor of the company. Comment on the proposed action of the Managing Director.

Answer

1. As per Sec. 224(5) of Companies Act, 1956, the first auditor of the company can be appointed by the Board of Directors within one month of the date of registration of the company to hold office till the conclusion of the first annual general meeting of the company.
2. If the Board fails to appoint the first auditor, the company in the general meeting can make the appointment.
3. In the given case managing director of PQR Ltd. himself wants to appoint Shri Ganpati as first auditor of company.
4. But as per above provisions, Managing Director of PQR Ltd. is not qualified to appoint Shri Ganpati.
5. Therefore, proposed action of Managing Director for the appointment of Shri Ganpati as first auditor is not valid.

2006- Nov.

PBS & Associates, a firm of Chartered Accountants, has three partners P, B and S. The firm is already having audit of 60 company audits which includes 2 branch audits of a company. The firm is offered 3 company audits, out of which one is a foreign company, other is a foreign company and the third one is a public company. Decide and advise whether PBS & Associates will exceed the ceiling prescribed under Section 224(1B) by accepting the above audit assignments?

Answer:

1. Sec. 224(1B) prescribes the ceiling limit on the member of company audits. Ceiling limit is 20 company audit per person. Of this 20, not more than 10 shall be in respect of companies having paid up capital of Rs. 25 lacs or more.
2. In computing ceiling limits full audits are not included:-
 - Branch Audit
 - Audit of corporations
 - Audit of foreign companies
 - Audit of guarantee companies not having share capital
 - Audit of private companies
 - Special Audit U/s 233 A
3. As per the given case, PBS & Associates, a firm of Chartered Accountants having 3 partners is entitled to 60 company audits.
4. At present, effective number of audit is 58, as Branch audits are not included in the computation of ceiling.
5. Moreover, the firm is offered 3 company audits out of which 2 audits are of foreign and private company that are not included in computing the ceiling limit.
6. By accepting the audit of public company, the effective number of audits with PBS & Associates will be 59 company audits.
7. Thus, PBS & Associates is advised to accept the above audit assignments as it will not exceed the ceiling prescribed U/s 224(1B).

2006- May

When Central Government's permission is required, when the auditors are to be removed before expiry of their term, but the same is not needed when the auditors are changed after expiry of their term?

Answer:

1. As per Sec. 224, an auditor may be removed from office before the expiry of his term by an ordinary resolution in the general meeting and previous approval of the Central Government.
 2. Thus, it is difficult to remove an auditor before expiry of his term since adequate grounds must exist to prove that auditor is unsuitable for continuing as an auditor.
 3. Approval of Central Government is required to ensure that any auditors who is inconvenient to the management cannot be removed so easily.
 4. Thus, such stringent provision provides that auditor cannot be removed at will by management or shareholders. Such provisions ensure independence of auditors.
- Also, Sec 225 lays down procedure for the removal of auditor after expiry of the term. In this case approval of Central Government is not necessary. As auditor appointed at one annual general meeting will automatically retire at another annual general meeting, it does not require approval of Central Government.

2005- May

The Board of Directors of a Company have filed a complaint with the Institute of Chartered Accountants of India against their statutory auditors for their failing to attend the Annual General Meeting of the Shareholders in which audited accounts were considered.

Answer :

1. The Companies Act, 1956 confers a right on the auditor to attend the general meeting.
2. It requires that all the notices and other communications relating to any general meeting of a company which the members of the company is liable to get, must also be forwarded to the auditor.
3. Further, it has been stated that the auditor must be entitled to attend any general meeting and to be heard at any general meeting, which he attends on any part of the business, which concern him as an auditor.
4. Therefore, the section does not cast a duty on an auditor to attend the annual general meeting.
5. The law only confer right on the auditor to have notices and also attend the meeting if he so desires.
6. There, the complaint made by board of director does not have any valid ground.

2005 -- May

The Central Government has appointed Mr. Sushil, a retired Finance Director of a reputed company, a non-practising member of ICAI, as a special auditor of MM Ltd., on the ground that the company was not being managed on sound business principles. Mr. Ajay, MD of MM Ltd., feels that the appointment of Mr. Sushil is not valid, as he does not hold a certificate of practice.

Answer :

1. As per Section 233A of the Companies Act, 1956 the circumstances mentioned in the Section give power to the Central Government that it may forward direction to the effect that a special audit of the companies account for the given period shall be performed.
2. One of the circumstances stated by the section is that in case a company is not being managed as per sound business principles or prudent commercial practices.
3. CG may appoint a CA whether or not in practice or the company's auditor itself to conduct such special audit.
4. Thus the appointment of Mr. Sushil, a non-practising member of Institute of Chartered Accountant of India is as per law and therefore Mr. Ajay, MD of MM Ltd. is not correct.

Question

Mr. A was appointed as auditor of AAS Ltd. by Board to fill the casual vacancy that arose due to death of the auditor originally appointed in AGM. Subsequently, Mr. A also resigned on health grounds during the tenure of appointment. The Board filled this vacancy by appointing you through duly passed Board resolution.

Answer.

1. U/s 224(6), the BOD can appoint an auditor in case of casual vacancy arising out of a reason other than resignation.
2. However, appointment of an auditor for casual vacancy by reason of resignation shall be done by the shareholders in the general meeting of the company.
3. **In the present case**, the first casual vacancy due to death of the existing auditor and the appointment of Mr. A by the BOD was absolutely valid u/s 224(6) as above.
4. The second vacancy raised due to the resignation of Mr. A which was subsequently filled by the BOD and hence not valid u/s 224(6) as it was required to be filled by shareholders.
5. **Thus**, appointment is not valid.