

CONSOLIDATION OF ACCOUNTS

SERIES NO I75

I have already discussed the complete concept of “Consolidation of Financial Statement in my article Series No. 163” Link Given Below:

<http://www.csdiveshgoyal.info/2016/07/consolidated-financial-statement.html>

As we are aware that MCA has issued a Notification dated 27th July, 2016 Companies (Account) Amendment Rules, 2016 and made some major amendments in Rule 6 “**Manner of consolidation of accounts**”.

Seemingly, the amendment has been made in order to align with the provisions of Ind AS which also provide for similar conditions for availing of relaxation from the requirement of the consolidation of the accounts.



BACKGROUND:

Many professionals have been raising question on interpretation of applicability of the Consolidation of Financial Statement:-

- i. Whether provisions of consolidation of financial statement applicable on unlisted Companies or not?
- ii. Whether the conditions are cumulative or mutually exclusive in order to avail of the consolidation exemption?

Let's first discuss the first question:

Whether unlisted Companies have to prepare the consolidated financial statement for the financial year ending on 31.03.2016 or after 31.03.2016 or not? Some people hold a view that only listed Companies have to prepare consolidation of financial statement. One of the arguments put forth by the people supporting the first school of thought is that Companies (Account) Amendment Rules, 2016 has give conditions, if Company fulfill any one conditions then such Company not required to prepare Consolidated financial statement. Such condition is “it is a company whose

securities are not listed or are not in the process of listing on any stock exchange, whether in India or outside India”

Answer of first question also include the answer of second question.

Statutory Provisions Contained Under the Act:

Provisions of the Companies Act, 2013 to the extent relevant for our discussion, are stated as under (with necessary comments and modifications, wherever felt necessary)

As stated in Section 129(3) where a company has one or more subsidiaries, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as may be prescribed.

Rule 6 of Companies (Account) Rules, 2014 prescribed Manner of consolidation of accounts. The consolidation of financial statements of the company shall be made in accordance with the provisions of Schedule III of the Act and the applicable accounting standards:

Provided that in case of a company covered under sub-section (3) of section 129 which is not required to prepare consolidated financial statements under the Accounting Standards, it shall be sufficient if the company complies with provisions on consolidated financial statements provided in Schedule III of the Act.

"Provided further that nothing in this rule shall apply in respect of preparation of consolidated financial statements by a company if it meets the following conditions:-

(i) it is a wholly-owned subsidiary, or is a partially-owned subsidiary of another company and all its other members, including those not otherwise entitled to vote, having been intimated in writing and for which the proof of delivery of such intimation is available with the company, do not object to the company not presenting consolidated financial statements;

(ii) it is a company whose securities are not listed or are not in the process of listing on any stock exchange, whether in India or outside India and

(iii) its ultimate or any intermediate holding company files consolidated financial statements with the Registrar which are in compliance with the applicable Accounting Standards

Interpretation Note:

As per details mention in second proviso of Rule 6 Companies (Account) Amendment Rules, 2016, A Company not required to prepare consolidated financial statement if it's fulfill the **Following conditions**. That is to say, more than one conditions is required to be met to avail of the exemption. Therefore, as per Literal Rule of Interpretation it is clear that Companies are not required to prepare consolidated financial statement if it's fulfill the all three conditions simultaneously.

- Subsidiary Company is neither Listed or nor in process of Listing.
- Its ultimate or any intermediate holding is filing consolidated financial statement.
- It is WOS or partly owned subsidiary if such non consolidation is informed to members and no objection received from them.

From a combined reading of the second provision of Rule 6 and the provisions under Ind. AS, it is pertinent to mention here that the conditions stated above are cumulative in nature and, hence, in order to avail of this exemption, a Company has to satisfy all the conditions.

Thus, by no means a conclusion can be drawn that unlisted holding Companies are exempted from the preparation of CFS.

NOTE:

This is an attempt to consolidating the entire changes w.r.t. consolidation of financial statements that have been made by MCA in piecemeal.

- ✓ It is cleared by the FAQs of ICAI that even in case Company has no subsidiary but associate/JV CFS needs to be prepared
- ✓ As per ICAI FAQs, Company is required to consolidate its associate or joint venture which is *LLP* or *Partnership Firm*.
- ✓ If Subsidiary Company fulfills all three conditions given in 27.07.2016 MCA notification then such subsidiary not required to prepare the consolidating financial statement.

- ✓ Such consolidation of JV and Associate is applicable for the f.y. 2015-16.
- ✓ Indian Company also required to consolidate the financial statement of subsidiary/JV/Associate incorporated outside India.

Amendment in AS-21

The AS Amendment Rules have substituted the text of AS-21. Pursuant to Para 9 of the revised AS-21:

“a parent which presents consolidated financial statements should consolidated all subsidiaries, domestic as well as foreign, other than those referred to in paragraph 11. Where an enterprise does not have a subsidiary but has an associate and/or a joint venture such an enterprise should also prepare consolidated financial statements in accordance with Accounting Standard (AS) 23, Accounting for Associates in consolidated Financial Statements, and Accounting standard (AS) 27, Financial Reporting of Interests in Joint Ventures respectively.”

Accordingly, consolidation will now be required for associates and JV companies even in case the Company has no subsidiary or subsidiaries.

FAQ'S

If Company A hold 35% Equity Shares and 75% Compulsory Convertible preference share capital of Company B, then Whether Company B shall be Subsidiary of Company A?

Definition of Subsidiary: “subsidiary company” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.

As per Definition holding will be determine on the basis of total share capital (equity + Compulsory Convertible preference). According to this Company B will be consider as subsidiary of Company A and because of holding of 75% of preference share capital Company A required to prepare the consolidate financial statement including Company B.

Whether need to consolidate account of LLP?

First Situation: LLP as Joint Venture:

A joint venture is a contractual arrangement whereby two or more parties undertake an economic activity, which is subject to joint control.

If a Company enters into a joint venture agreement with a LLP in which Company control more than 20% of business decision. Such Joint venture LLP shall be consider as associate as per definition of Section 2(6) of CA, 2013.

As a joint venture or associate there is need to consolidate the accounts of such LLP with the Company.

Second Situation: LLP as Subsidiary:

- As per clause 87 of section 2 of CA, 2013 “subsidiary company” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which the holding company exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.
- As per explanation of this definition: the expression “company” includes anybody corporate.
- As per section 3 of LLP Act, LLP is Body Corporate.

Therefore, LLP as a Body Corporate fall under the definition of Subsidiary. Therefore, Company required consolidating the accounts of LLP.

It is pertinent to mention here that on 24.06.2016 vide Frequently Asked Questions (FAQs) regarding requirements to prepare CFS, ICAI has clarified that even in case a Company has no subsidiary but has associate/JV, CFS needs to be prepared for FY 2015-16.

A Company H Ltd has no subsidiaries, but has investment in an associate and a joint venture. Whether H Ltd. is required to prepare consolidated financial statements for the year ending March 31, 2016, in the context of Companies (Accounting Standards) Rules, 2006.

Section 129 (3) of the Companies Act, 2013 provides that where a company has one or more subsidiaries, it shall prepare a consolidated financial statement of the company and of all the subsidiaries. Further, an Explanation to this sub section provides that the word “subsidiary” shall include associate company and joint venture.

In view of the above, in the given case, though H Ltd does not have any subsidiary, it is required to prepare consolidated financial statements for its associate and joint venture in accordance with the applicable Accounting Standards, viz, AS 23, Accounting for Investments in Associates in Consolidated Financial Statements and AS 27, Financial Reporting of Interests in Joint Ventures, respectively.

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