SHREE GANESHAYA NAMAH

AMENDMENTS CLASS
FOR MAY 2015 EXAM
ADVANCED AUDITING
AND
PROFESSIONAL ETHICS
C.A. FINAL

CA SURENDRA AGRAWAL
PH-9313336776
Email-ca.surendra@gmail.com
Visit At-www.casurendra.wordpress.com

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Contents at a Glance

Professional Ethics

First SCHEDULE

PART – I

Clause 8

Professional reasons for not accepting audit

- **a.** Non-compliance of provisions of Section 224 & 225 of Companies Act. ***[now Section 139, 140 and 142 read with Section 141 of the Companies Act, 2013];***

Clause 9

A CA in practice shall be deemed to be guilty of professional misconduct, if

- Accepts an appointment as auditor of a company without first '**ascertaining'** from it whether the requirements of section 225 of the Companies Act, 1956 ***(now Section 139, 140 and 142 read with Section 141 of the Companies Act, 2013).*** in respect of such appointment have been duly complied with. **(Nov 1999, Nov 2003)**

Chapter-2

Audit of Public Sector Undertaking

Appointment of Auditors	(**C&AG**).(U/s 139(5) or 139(7) of company act 2013)
Supplementary Audit143(6)	❑ Within 60 days, the C&AG is **authorized,** addition to the regular professional audit. **Authorized(**C&AG) ❑ **Comment** (C&AG) ❑ **Directives(**performance of their function) ❑ **form and content** ❑ Concentrate more on **efficiency** aspects ❑ **Same powers** as auditors,**Not comment(directors)**
OBJECTIVES OF AUDIT OF PSU	❑ **Interest Public** ❑ **Public fund** ❑ Lavishly (**used by management)** ❑ Auditor check (Public Welfare, **propriety norms,** substance of transaction)
PROPRIETY AUDIT	**verification of transactions** on the test of ***public interest***, commonly accepted *customs & standards* of conduct • **verification of transactions(*public interest)*** • ***Substance of transaction(***not to transactions intended to exploit, misuse or frustrate) • ***more* than(expenses as** own money) • ***Authority*** • ***benefit* of a particular** person/group • **Apart from *agreed remuneration***
PROPRIETY ELMENT u/s. 143(1)	• ***Investment(sold*** at a ***price lower than* its cost)** • ***personal expenses(charged to revenue)*** • ***loans* and secured advances(*not prejudicial*)** • ***Transactions(book entries)*** • ***S-share***
PROPRIETY ELEMENT UNDER COST AUDIT REPORT	• Principle,Factors,Company's funds
PROPRIETY AUDIT-PROBLEMS	• moral term. • verifiable propositions is very difficult • subjectivity. • judgment of auditor shouldn't be subjective
COMMITTEES ON PUBIC UNDERTAKINGS	• set up under the rule of LOK SABHA • Examine the Audit reports on PSU. • select some enterprises each year • *doesn't* however examine mattes of major Government policy or day-to-day administration • gives its findings and recommendations in its report which are presented to Parliament / State Legislatures.
Types of Audits	*(1) Professional,(2) Supplementary Audit u/s* 143(6),*(3)Comprehensive audit*
COMPREHENSIVE AUDIT	• *examination in detail of various aspects of PSU to ascertain its efficiency and effectivness.Considerations by auditor* ❑ *investment decision* ❑ *internal control systems* ❑ *timely basis(decision)* ❑ *minimum wastages* ❑ *Operation(efficient manner)* ❑ *Repair and maintenance programs(timely basis)* ❑ *effective way(R&D)* ❑ *under-utilization(capacity)* ❑ *Economy and efficiency(project formulation)*
Performance Audit:	• *It aims to ascertain that government programmes* • *have achieved the desired objectives at the lowest cost and given the intended benefits. It includes: Efficiency audit:* • *constant comparison is made between the input and output. The object of efficiency audit is to find out the extent to which operations are carried out in an efficient manner. Economy audit:* • *It finds out whether the government has acquired the financial, human and physical resources in the most economic manner.* • *Effectiveness audit:* • *It is aimed at carrying out an appraisal of the performance of programmes, schemes and projects with reference to over all objectives.*

Chapter-3

Audit Report

***Note:** Draft Audit Report under SA 700 has not yet been Revised to incorporating section 143 of the companies act 2013*
As the format of audit report as on date contains reference to the section 227 of the companies act 1956, these topics have been given hereunder.

AUDIT REPORTS UNDER COMPANIES ACT, 1956

Types Of Audit Report (Audit Opinion) – There are two types of Opinion:

i) Unqualified Opinion – SA 700, "Forming an Opinion and Reporting on Financial Statements" states that the auditor shall express an **unmodified opinion** when the auditor concludes that the FS are prepared, in all material respects, in accordance with the applicable financial reporting framework.
The auditor issues a clear report in case he does not have any reservations in respect of matters contained in the financial statements. In such a case, the audit report may state that the FS give a true and fair view of the state of affairs and profit and loss account during the period. For issuance of unqualified report, the auditor should satisfy himself that -
a. Reasonable evidence is obtained in support of the transactions recorded in the books of account;
b. Accounting entries passed in the books of account are in conformity with the applicable accounting principles and standards followed consistently;
c. The financial statements prepared represent a true summary of transactions that took place during the year;
d. The process of classification and aggregation followed in preparation of the financial statements is fair and does not hide a material fact nor does it highlight something which may distort the real state of affairs. The form of accounting statement is in the required form, if any;
e. The accounting statements do not contain any misstatement;
f. The material transactions recorded in the books are neither illegal nor beyond the legal powers of the client; and
g. All statutory and relevant disclosures have been made.
Circumstances That May Result In Other Than Unqualified Opinion
a. Limitation of Scope - The client or circumstances may impose the limitation of scope on auditor's work.
b. Disagreement with Management - The disagreement may be as regards the

applicability of accounting policies or the method of their application including the adequacy of disclosures in the financial statements.

c. Uncertainty - A significant uncertainty, the result of which will be dependent upon resolution of future events may cause the auditor to qualify his report. For example, alitigation involving legal claims against the company.

ii) Modified Opinion – Form of Opinion - SA 700, "Forming an Opinion and Reporting on Financial Statements" states that if the auditor:

a. Concludes that, based on the audit evidence obtained, the FS as a whole are **not free** from material misstatement; or

b. is **unable to obtain sufficient appropriate audit evidence** to conclude that the FS as a whole are free from material misstatement; the auditor shall **modify the opinion** in the auditor's report in accordance with SA 705.

Refer "SA 705 - Modifications to the Opinion in the Independent Auditor's Report" in Chapter "Standards on Auditing" for types of Modified Opinion.

1 Duties of Auditors

1. **Inquiry into specified areas [Sec.143(1)]:** The Company Auditor shall inquire into the following aspects –

   (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 transactions of the Company, which are represented merely by Book Entries, are prejudicial to the interests of the Company,

   (c) Where the Company is not an Investment Company or Banking Company, whether Assets of the Company consisting of Shares, Debentures, and other Securities have been sold at a price less than that at which they were purchased by the Company.

   (d) Whether Loans and Advances made by the Company have been shown as Deposits,

   (e) Whether Personal Expenses have been charged to Revenue Account,

   (f) Where any Shares have been allotted for cash, whether cash has actually been received, and if no cash has been received, whether the position as stated in the account books and the Balance Sheet is correct, regular and not misleading.

2. Reporting as to True and Fair [Sec.143(2)]:

Items reported on	**(a) on the accounts examined by him, and** **(b) on every Financial Statements which are required by or under this Act to be laid before the Company in General Meeting.**
Reporting Considerations	The Report shall be made after taking into account, the following – (a) the provisions of the Act, (b) the accounting and auditing Standards, (c) matters which are required to be included in the Audit Report under the provisions of the Act / Rules / Order u/s 143(11) (d) best of his information and knowledge.
Essence of Report	In addition to other reporting matters, the Audit Report shall state whether the said Accounts, Financial Statements, give a **true and fair view** of – (a) the state of the Company's affairs as at the end of the financial year, (b) Profit or Loss, (c) Cash Flow for the year.

3. Reporting Requirements [Sec.143(3)]: The Auditor's Report shall also state –

(a) Whether he has sought and obtained all **information and explanations** to the best of his knowledge and belief that are necessary for the purpose of his audit. If the required information is not obtained, details and effect in Financial Statements should be mentioned.

(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 and proper returns adequate for the purposes of his audit have been received from Branches not visited by him,

(c) Whether the report on the **accounts of any Branch Office** audited by a person other than the Company Auditor has been forwarded to him and how he has dealt with the same in preparing the Auditor's Report,

(d) 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,

(e) Whether, in his opinion, the Financial Statements **comply with the Accounting Standards**, the observations or comments of the Auditors on financial transactions or matters which have any **adverse effect** on the **functioning** of the company,

(f) Whether any Director is disqualified from being appointed as a Director u/s 164(2),

(g) any **Qualification, Reservation or Adverse Remark** relating to the maintenance of accounts and other matters connected therewith,

(h) Whether the Company has adequate **Internal Financial Controls** system in place and the operating effectiveness of such controls,

(i) Other matters as may be prescribed –

(i) whether the Company has disclosed the impact, if any, of **pending litigations** on its financial position in its Financial Statement,

(ii) whether the Company has made provision, as required under any law or Accounting Standards, for **material foreseeable losses**, if any, on long–term contracts including Derivative Contracts,

(iii) whether there has been any **delay** in transferring amounts, required to be transferred, to the **Investor Education and Protection Fund** by the Company.

4. **Reasons for Negative / Qualification [Sec.143(4)]:**

(a) In case of Negative Remark or Qualification in any of the reporting matters u/s 143, the Audit Report shall state the **reasons** therefor.

(b) Qualifications, Observations or Comments on the 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 its General Meeting.
- **open for inspection** by any Member of the Company. **[Sec.145]**

CARO is not applicable for May 2015 exam just given only reference

COMPANIES (AUDITOR'S REPORT) ORDER, 2003

APPLICABILITY:

The order provides that it shall not apply to:

I. a banking company;
II. an insurance company
III. a company licensed to operate under section 25 of companies act,1956;

A private limited company with a paid-up capital and reserve not more than rupees fifty lakhs and which does not have outstanding loan exceeding rupees twenty five lakha from any bank or financial institution and does not have a turnover exceeding rupees five crores at any point of time during the financial year.

(1) Paid up share capital would include both **equity as well as preference share capital**
(2) Both capital as well as **revenue reserves should be taken into consideration** while computing the limit of rupees 50 lakhs prescribed for paid-up capital and reserves.
(3) Revaluation reserve, if any should also taken into consideration while determining the figure or reserve for the limited purpose of determining the applicability of the order.
(4) The **debit balance of the profit and loss account**, if any should reduced from revenue reserves.
(5) Loans from banks or financial institution are normally in the form of term loans, demand loans, working capital limit, cash credits, overdraft facilities, bill purchased or discounted.
(6) Outstanding balances of such loans should be considered as loan outstanding for the purpose of computing the limit of rupees twenty five lakhs.
(7) Clarified that since the words used by the order are any bank or financial institution, the limit of exceedin 25 lakh rupees applies in **aggregate to all loans**.
(8) It defines the term "turnover" as the the **aggregate amount** for which ale are affected by company.
(9) It may be noted that the "sale effected" would include sale of goods as well as service rendered by the company. Following should be considered:
(i) Sales tax collected or excise duties collected should not be Taken account if they are credited separately to sales tax account or excise duty account;
(ii) Trade discount should be deducted from the figure of turnover;
(iii) Commission allowed to third party should be from the figure of turnover; and
(iv) Sales return should be deducted from the figure of turnover even if the returns are from the sales made in the earlier year.

PREVIOUS YEARS QUESTIONS

Question -1

A Pvt. Ltd. is incorporated on 1st July, 2008. During the year ended 31st March, 2009, it had issued shares (fully paid up) of Rs. 40 lakhs, had borrowed Rs. 15 lakhs each from 2 financial institutions and its turnover (Net of excise Rs. 50 lakhs which is credited to a separate account) is Rs.475 lakhs. Will Companies Auditors Report Order, 2003 (CARO) be applicable to A Pvt. Ltd.? **[MAY 05 (4 MARKS)]**

Answer: **CARO is applicable as outstanding loan amount in aggregate exceeds Rs. 25 lacs**.

Question -2

As. an auditor, how would you deal with the following: L Private Ltd., which has outstanding loan of Rs. 50 lakhs from Financial Institution defaulted in repayment thereof to the extent of 50%. The company holds that it being a private limited company, the Companies Auditors Report Order (CARO) is not applicable. [MAY 07 (5 MARKS)]

Answer: **CARO is applicable over the L Private Limited as outstanding loan from financial institution exceeds Rs. 25 Lacs.**

Question -3

T Pvt. Ltd.'s paid up Capital & Reserves are less than Rs. 50 lakhs and it has no outstanding loan exceeding Rs. 25 lakhs from any bank or financial institution. Its sales are Rs. 6 crorcs before deducting Trade discount Rs. 10 lakhs and Sales returns Rs. 95 lakhs. The services rendered by the company amounted to Rs. 10 lakhs. The company contends that reporting under Companies Auditor's Reports Order (CARO) is not applicable. Discuss. [NOV. 07 (4 MARKS)]

Answer: **Turnover of the company including value of service rendered after deducting trade discount and sales returns amounts to Rs. 5.05 crores (i.e. 6 - 0.10 - 0.95 + 0.10 crore). Hence the contention of the company that CARO is not applicable is not correct.**

Question -4

A Private limited company reports the following position as on 31 st March, 2010: Paid up capital 30 Lacs Revaluation reserves 10 Lacs Capital reserves 11 Lacs P & L A/c (Dr. Balance) 2 Lacs.

The management of the company contends that CARO 2003 is not applicable to it. [MAY 10 - NEW (5 MARKS)]

Answer: **CARO is applicable as paid up capital and reserves exceeds Rs. 50 Lacs (30 Lacs + 10 Lacs + 11 Lacs). Debit balance of P & L Account has not been deducted as there are no revenue reserves.**

Question -5

Under CARO 2003, how as a statutory auditor would you comment on the following: X Pvt. Ltd. Is a subsidiary of a listed entity incorporated outside India. The management of the company believes that since X Pvt. Ltd. Is a private company and satisfies all conditions under CARO 2003, reporting under CARO is not applicable.

Matters to be Considered

1. **Fixed Assets**
   - Proper records(situation wise and quantity wise)
   - Physical verification & discrepancies
   - If disposed off whether affecting going concern
2. **Inventories**
   - Physical verification
   - Procedure reasonable (inadequacy to be pointed out)
   - Proper records & discrepancy.

3. **Loan to parties covered under register U/s 301**

Given	*Taken*
1. If yes, no of parties and amount	1. If taken no. of parties and amount
2. Interested terms/conditions prejudicial	2. Interested term/conditions prejudicial
3. Receipt regular	3. Payment regular.
4. If overdue amount > 1 lakh reasonable steps.	

4. **Internal Control**
   - Purchase of inventory and Fixed assets
   - Sale of goods and services
   - Is failure to correct weaknesses?

5. **Transaction with parties covered under register U/s 301**
   - Particulars of contract/arrangements entered in register

- ❖ Transaction at reasonable prices (for transaction > 5 lakh for each party for each F.Y.)

6. **Companies accepting public deposit**
   - ❖ RBI/Companies Act/ any other act complied.
   - ❖ Order by CLB/RBI/Court/NCLT complied.

7. **Internal Audit**

Listed Company &/or Other company

(i) Paid up capital reserve > 50 lakh at starting of year. *Or*

(ii) Average annual turnover > 5 crore Rs. for 3 F.Y. immediately preceding this year.

8. **Cost record** – Whether maintained if prescribed.
9. **Statutory Dues**
   - ❖ Regular in depositing undisputed statutory dues if not extent of arrears as at balance date exceeding 6 months to be reported.
   - ❖ If dispute amount and forum.

10. **Company registered > 5 years**
    - ❖ Accumulated losses at end > 50% of net worth and
    - ❖ Cash loss in this / immediately preceding F.Y.

11. **Defaulted** –Payment of dues to Financial Institutions or Debenture holders – Yes paid and amount.
12. **Loan/Advance (secured)** – Proper records/Documents (deficiency)
13. **Special Statutes to chit fund**
    - ❖ Net owned fund/deposit liability > 1/20 as at B/s.
    - ❖ Companies complied with prudential norms
    - ❖ Adequate procedure for cr. appraisal
    - ❖ Repayment schedule based on repayment capacity.

14. **Company trading / dealing in Sh/Securities etc.**
    - ❖ Proper records of transfer and contracts
    - ❖ Timely entries
    - ❖ Investment in own name (except U/s 49)

15. **Guarantee to Bank/ F.I** – Terms & condition prejudicial

16. **Term loans** – Applied for purpose for which obtained.

17. **Short term funds** – Used for long term (amount & nature)

18. **Preferential allotment to parties covered under register maintained U/s 301**

- ❖ Whether made
- ❖ Price (whether prejudicial)

19. **Security/charge –** Created for debentures issued.

20. Whether management disclosed **end use of money** raised by public issue and same verified.

21. **Fraud** on / by company reported if yes – nature and amount

Auditor should consider following while rendering modified report

- The auditor should identify the statements of facts and opinions, which require qualification.
- Where the auditor is in active disagreement with something, which the management had done he would either give an adverse report or disclaim his opinion.
- Where the disagreement with the management is only in respect of a particular item, he may qualify his report.
- Where the item is material enough to distort the true and fair view of *state of* affairs of the company, he may give an adverse opinion in respect of such item.
- Where the item concerned is not material, he may even ignore the aspect and issue a clean report.

AUDITOR'S SEPARATE REPORT TO DIRECTORS

1. The management of the company may require from the auditor a separate report in addition to his report under section 227 of the Act.
2. The objective of such reports is to provide the management with detailed information regarding procedures, systems, weaknesses in internal controls etc.
3. Such reports should be detailed enough to highlight the weakness and suggestions to improve.
4. However, the auditor should take care that matters, which are material enough to be reported to the shareholders are not contained in his report to the directors.
5. Thus, auditor's separate report to director can not be substituted for an otherwise modified report.

AUDIT CERTIFICATES AND AUDIT REPORT

1. A certificate is a written confirmation of the accuracy of the facts stated therein and does not involve any estimate or opinion.
2. The auditors certificate represents that he has verified certain figures and is satisfied about their accuracy.

3. However, a report, is a formal statement made after an enquiry or examination of the specified .matters under the report and the auditors opinion thereon.
4. Thus the opinion may differ from one auditor to another as it involves personal judgment.

Criminal liability for misstatements in prospectus [Section 34]Company Act 2013)

1. In the following cases, every person who authorises the issue of prospectus shall be liable under section 447 i.e. *Punishment for fraud:*

a. Where a prospectus is issued, circulated or distributed under this Chapter and it includes any statement which is untrue or misleading in form or context in which it is included; or
b. Where any inclusion or omission of any matter is likely to mislead any person.

2. A person shall not be liable if:

a. he proves that such statement or omission was immaterial or
b. he had reasonable grounds to believe that the statement was true or the inclusion or omission was necessary, and till the time of issue of the prospectus, continued to believe that the statement was true or the inclusion or omission was necessary.

In the new law of 2013 Act, penalties are made much rigid than that of old law. Here the person who authorizes the issue of such prospectus shall be punishable for fraud under section 447. Also, class action suits may be taken against the guilty person as per section 37 of the 2013 Act.

Civil liability for misstatements in prospectus [Section 35]

1. Where a person has subscribed for securities of a company acting on any statement included, or the inclusion or omission of any matter, in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person who—

(a) is a director of the company at the time of the issue of the prospectus;
(b) has authorised himself to be named and is named in the prospectus as a director of the company, or has agreed to become such director, either immediately or after an interval of time;
(c) is a promoter of the company; and
(d) has authorised the issue of the prospectus.

shall, without prejudice to any punishment to which any person may be liable under section 36, be *liable to pay compensation to every person* who has sustained such loss or damage.

2. No person shall be liable, if he proves—

(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.

3. Notwithstanding anything contained in this section, where it is proved that a prospectus has been issued with intent to defraud the applicants for the securities of a company or any other person or for any fraudulent purpose, every person referred in point 1 above shall be personally responsible, *without any limitation of liability*, for all or any of the losses or damages that may have been incurred by any person who subscribed to the securities on the basis of such prospectus.

4. As per section 2(69), "promoter" means a person—

(a) who has been named as such in a prospectus or is identified by the company in the annual return; or

(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act. It does not apply to a person who is acting merely in a professional capacity.

The definition of promoter has been specifically defined in the 2013 Act. This exhaustive definition is providing that who shall be considered as promoter and omits the persons from being called as promoters where he merely acts in professional capacity.

Chapter-4

Clause 49 of listing agreement (Corporate Governance)

- *Corporate Governance is the system*
- *by which companies are directed and governed by the management*
- *The best interests of the stakeholders and others*
- *Ensuring better management, greater transparency and timely financial reporting.* ***The Board of Directors*** *are responsible for governance of their companies.*

PREVIOUS YEARS QUESTIONS

- Q: Write short note on: Corporate Governance. [NOV. 04, NOV. 10 - OLD (4 MARKS)

Applicability of Clause Corporate Governance:	*The Clause 49 of the Listing Agreement shall be applicable to all companies whose equity shares are* ***listed on a recognized stock exchange****.*
Exemptions:	*(1)Companies having* ***paid up equity share capital*** *not exceeding 10 crore and Net Worth not exceeding Rs.25 crore, as on the last day of the previous financial year;* *(2)Companies whose equity share capital is listed exclusively on the SME and SME-ITP Platforms*

II. Board of Directors

A. Composition of Board	1. The Board of Directors of the company shall have an **optimum combination** of **executive and non-executive** directors with **at least one woman director** and <u>not less than fifty percent of the Board of Directors comprising non-executive directors.</u> 2. **The Provisions regarding appointment of woman director** shall be applicable wef April 01,2015) 3. Where the **Chairman of the Board is a non-executive director**, <u>at least one-third</u> of the Board should comprise independent directors and in case the company <u>does not have a regular nonexecutive</u> Chairman, **at least half of the Board sho**uld comprise independent directors. *Provided that where the regular non-executive Chairman is a promoter of the company or is related to any promoter or person occupying management positions at the Board level or at one level below the Board, at least one-half of the Board of the company shall consist of independent directors*. Explanation: For the purpose of the expression "related to any promoter" referred to in sub clause (2): (i) If the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it; (ii) If the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it."

B. Independent Directors	For the purpose of the clause A, the expression **'independent director'** shall mean a non-executive director, other than a nominee director of the company: a. who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience; b. (i) who is or was not a promoter of the company or its holding, subsidiary or associate company; (ii)who is not related to promoters or directors in the company, its holding, subsidiary or associate company; c. **apart from receiving director's remuneration,** has or had no material **pecuniary relationship** with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year; d. none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to **two per cent**, or more of its gross turnover or total income or **fifty lakh** rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year; e. who, neither himself nor any of his relatives — (i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed; (ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of— A. a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or B. any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent or more of the gross turnover of such firm; (iii) holds together with his relatives two per cent or more of the total voting power of the company; or (iv) is a Chief Executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent or more of the total voting power of the company; (v) is a material supplier, service provider or customer or a lessor or lessee of the company; f. who **is less than 21 years of age.** **1. Explanation** For the purposes of the sub-clause (1): a. "Associate" shall mean a company which is an "associate" as defined in Accounting Standard (AS) 23, "Accounting for Investments in Associates in Consolidated Financial Statements", issued by the Institute of Chartered Accountants of India. b. "Key Managerial Personnel" shall mean "Key Managerial Personnel" as defined in section 2(51) of the Companies Act, 2013. c. "Relative" shall mean "relative" as defined in section 2(77) of the Companies Act, 2013 and rules prescribed there under. **2. Limit on number of directorships** a. A person shall not serve as an independent director in **more than seven listed companies**. **b.** Further, any person who is serving as a whole time director in any listed company shall serve as an independent director in **not more than three listed companies.'** 3. Maximum tenure of Independent Directors The maximum tenure of Independent Directors shall be in accordance with the Companies Act, 2013 and clarifications/ circulars issued by the Ministry of Corporate Affairs, in this regard, from

	time to time. 4. Formal letter of appointment to Independent Directors a. The company shall issue a formal letter of appointment to independent directors in the manner as provided in the Companies Act, 2013. a. , b. The terms and conditions of appointment shall be disclosed on the website of the company. 5.**Performance evaluation of Independent Directors** a. The Nomination Committee shall lay down the evaluation criteria for b. performance evaluation of independent directors. c. The company shall disclose the criteria for performance evaluation, as **laid down by the Nomination Committee, in its Annual Report.** d. The performance evaluation of independent directors shall be **done by the entire Board of Directors (excluding the director being evaluated).** e. On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director. 6.**Separate meetings of the Independent Directors** a. The independent directors of the company shall hold **at least one meeting in a year**, without the attendance of non-independent directors and members of management. All the independent directors of the company shall strive to be present at such meeting. b. The independent directors in the meeting shall: (i) review the performance of non-independent directors and the Board as a whole; (ii) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors; (iii) Assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties. 7.**Familiarisation programme for Independent Directors** a. The company **shall familiarise the independent directors** with the company, their roles, rights, responsibilities in the company, nature of the industry in which the company operates, business model of the company, etc., through various programmes. b. The details of such familiarisation programmes shall be disclosed on the company's website and a web link thereto shall also be given in the Annual Report."
C. Non-executive Directors' compensation and disclosures	**All fees / compensation**, if any paid to non-executive directors, including independent directors, shall be fixed by the Board of Directors and shall require **previous approval of shareholders in general meeting**. The shareholders' resolution shall specify the limits for the maximum number of stock options that can be granted to non-executive directors, in any financial year and in aggregate. Provided that the requirement of obtaining prior approval of shareholders in general meeting shall not apply to payment of sitting fees to non-executive directors, if made within the limits, prescribed under the Companies Act, 2013 for payment of sitting fees without approval of the Central Government. Provided further that **independent directors** shall not be entitled to any stock option.
D. Other	1. The Board shall meet **at least four times** a year, with a maximum time gap of

provisions as to Board and Committees	<u>one hundred and twenty days between any two meetings</u>. 2. A director shall <u>not be a member in more than ten committees</u> or act as <u>Chairman of more than five committees</u> across all companies in which he is a director. Furthermore, every director shall inform the company about the committee positions he occupies in other companies and notify changes as and when they take place. **Explanation:** I. For the purpose of considering the limit of the committees on which a director can serve, all public limited companies, whether listed or not, shall be included and all other companies including private limited companies, foreign companies and companies under Section 8 of the Companies Act, 2013 shall be excluded. II. For the purpose of reckoning the limit under this sub-clause, Chairmanship / membership of the Audit Committee and the Stakeholders' Relationship Committee alone shall be considered. 3. The **Board shall periodically review compliance reports** of all laws applicable to the company, prepared by the company as well as steps taken by the company to rectify instances of non compliances. 4. An independent director who resigns or is removed from the Board of the Company shall be replaced by a new independent director at the earliest but **not later than the immediate next Board meeting or three months from the date of such vacancy, whichever is later**. 5. Provided that where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply. 6. The Board of the company shall satisfy itself that plans are in place for orderly succession for appointments to the Board and to senior management.'
Code of Conduct	(i) The Board shall **lay down a code** of conduct for all Board members and senior management of the company. The code of conduct shall be posted on the website of the company. (ii) All <u>Board members and senior management</u> personnel shall **affirm compliance** with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by the CEO. (iii) The Code of Conduct shall suitably incorporate the duties of Independent Directors as laid down in the Companies Act, 2013. (iv) <u>An independent director shall be held liable</u>, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently with respect of the provisions contained in the Listing Agreement. **Explanation: For this purpose, the term "senior management" shall mean personnel of the company who are members of its core management team excluding Board of Directors. Normally, this would comprise all members of management one level below the executive directors, including all functional heads.**
F. Whistle Blower Policy	(i) The company shall establish a **vigil mechanism** for directors and employees to report concerns about unethical behavior, actual or suspected fraud or violation of the company's code of conduct or ethics policy.

	(ii) This mechanism should also provide for adequate safeguards against victimization of director(s) / employee(s) who avail of the mechanism and also provide for direct access to the Chairman of the Audit Committee in exceptional cases. (iii) The details of establishment of such mechanism shall be disclosed by the company on its website and in the Board's report.

III. Audit Committee

A. Qualified and Independent Audit Committee	(1) The audit committee shall have **minimum three directors** as members. Two-thirds of the members of audit committee shall **be independent directors**. (2) **All members** of audit committee shall be **financially literate** and at least one member shall have accounting or related financial management **expertise**. **Explanation** (i) The term '"financially literate" means the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and .statement of cash flows. Explanation (ii) A member will be considered to have accounting or related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. (3) The **Chairman** of the Audit Committee shall be an **independent director**; (4) The Chairman of the Audit Committee shall be **present at Annual General Meeting** to answer shareholder queries; (5) The Audit **Committee may invite such of the executives**, as it considers appropriate (and particularly the head of the finance function) to be present at the meetings of the committee, but on occasions it may also meet without the presence of any executives of the company. The finance director, head of internal audit and a representative of the statutory auditor may be present as invitees for the meetings of the audit committee; (6) The **Company Secretary** shall act as the secretary to the committee.
B. Meeting of Audit Committee	The Audit Committee should meet **at least four times** in a year and **not more than four months** shall elapse between two meetings. **The quorum** shall be either **two members or one third** of the members of the audit committee whichever is **greater**, but there should be a **minimum of two independent** members present.
C. Powers of Audit Committee	The Audit Committee shall have powers, **which should include the following**: 1. To **investigate** any activity within its terms of reference. 2. To **seek information** from any employee. 3. To **obtain outside legal or other professional advice**. 4. To **secure attendance** of outsiders with relevant expert
D. Role of Audit Committee	The role of the Audit Committee shall include the following: 1. **Oversight** of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient

	and credible; 2. **Recommendation** for appointment, remuneration and terms of appointment of auditors of the company; 3. **Approval** of payment to statutory auditors for any other services rendered by the statutory auditors; 4. **Reviewing**, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to: a. Matters required to be included in the Director's Responsibility Statement to be included in the Board's report in terms of clause (c) of sub-section 3 of section ; 134 of the Companies Act, 2013 b. Changes, if any, in accounting policies and practices and reasons for the same c. Major accounting entries involving estimates based on the exercise of judgment by management d. Significant adjustments made in the financial statements arising out of audit . findings e. Compliance with listing and other legal requirements relating to financial statements f. Disclosure of any related party transactions g. Qualifications in the draft audit report 5. **Reviewing**, with the management, the quarterly financial statements before submission to the board for approval; 6. **Reviewing**, with the management, the statement of uses/application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document / prospectus / notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public or rights-issue, and making appropriate recommendations to the Board to take up steps in this matter; 7. **Review** and monitor the auditor's independence and performance, and effectiveness of audit process; 8. **Approval** or any subsequent modification of transactions of the company with related parties; 9. **Scrutiny** of inter-corporate loans and investments; 10. **Valuation** of undertakings or assets of the company, wherever it is necessary; 11. **Evaluation** of interna! financial controls and risk management systems; 12. **Reviewing**, with the management, performance of statutory and internal auditors, adequacy of the internal control systems; 13. **Reviewing** the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit; 14. **Discussion** with internal auditors of any significant findings and follow up there on; 15. **Reviewing the findings** of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board;

	16. **Discussion with statutory auditors** before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern; 17. To look into the **reasons** for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non-payment of declared dividends) and creditors; 18. To review the functioning of the **Whistle Blower** mechanism; 19. **Approval of appointment of CFO** (i.e., the whole-time Finance Director or any other person heading the finance function or discharging that function) after assessing the qualifications, experience and background, etc. of the candidate; 20. Carrying **out any other function** as is mentioned in the terms of reference of the Audit Committee. ***Explanation (i): The term "related party transactions" shall have the same meaning as provided in Clause 49(VII) of the Listing Agreement.***
E. Review of information by Audit Committee	The Audit Committee shall mandatorily review the following information: 1. **Management discussion** and analysis of financial condition and results of operations; 2. Statement of significant **related party transactions** (as defined by the Audit Committee), submitted by management; 3. Management letters / letters of **internal control weaknesses** issued by the statutory auditors; 4. **Internal audit reports** relating to internal control weaknesses; and 5. **The appointment, removal** and terms of remuneration of the Chief internal auditor.

PREVIOUS YEARS QUESTIONS

Q. Write short note on: Audit Committee. [NOV. 02 (4 MARKS)]

Q. Explain the constitution and functions of audit Committee u/s 292A of the Companies Act.(Now Section 177 of the Companies Act, 2013)

Q. State the main features of the Qualified and Independent Audit Committee set up under clause 49 of the listing agreement. [NOV. 08 - NEW (8 MARKS)]

IV. Nomination and Remuneration Committee	A. The Company **through its Board of Directors** shall constitute the nomination and remuneration committee which shall comprise **at least three directors**, all of whom shall be **non-executive directors and at least half shall be independent. Chairman** of the committee shall be an **independent director**. ***Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee."*** **B. <u>The role of the committee shall, inter-alia, include the following:</u>** a. Formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration of the directors, key managerial personnel and other employees; b. Formulation of criteria for evaluation of Independent Directors and the Board; c. Devising a policy on Board diversity;

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d. Identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the Board their appointment and removal. The company shall disclose the remuneration policy and the evaluation criteria in its Annual Report.
C. The Chairman of the nomination and remuneration committee could be present at the Annual General Meeting, to answer the shareholders' queries. However, it would be up to the Chairman to decide who should answer the queries.
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<tr><td>V. Subsidiary Companies</td><td>
1. At least one independent director on the Board of Directors of the holding company shall be a director on the Board of Directors of a material non-listed Indian subsidiary company.
2. The Audit Committee of the listed holding company shall also review the financial statements, in particular, the investments made by the unlisted subsidiary company.
3. The minutes of the Board meetings of the unlisted subsidiary company shall be placed at the Board meeting of the listed holding company.
4. The management should periodically bring to the attention of the Board of Directors of the listed holding company, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary company.
5. The company shall formulate a policy tor determining 'material' subsidiaries and such policy shall be disclosed on the company's website and a web link thereto shall be provided in the Annual Report.
For the purpose of this clause, a subsidiary shall be considered as material if the investment of the company in the subsidiary exceeds twenty per cent of its consolidated net worth as per the audited balance sheet of the previous financial year or if the subsidiary has generated twenty per cent of the consolidated income of the company during the previous financial year.
6. No company shall dispose of shares in its material subsidiary which would reduce its shareholding (either on its own or together with other subsidiaries) to less than 50% or cease the exercise of control over the subsidiary <u>without passing a special resolution in its General Meeting</u> except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/ Tribunal.
7. Selling, disposing and leasing of assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate, basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal.
Explanation (i): For the purpose of sub-clause (V)(A), the term ''material non-listed Indian subsidiary" shall mean an unlisted subsidiary, incorporated in India, whose income or net worth (i.e. paid up capital and free: reserves) exceeds 20% of the consolidated income or net worth respectively, of the listed holding company and its subsidiaries in the immediately preceding accounting year.
Explanation (ii): For the purpose of sub-clause (V)(C), the term "significant transaction or arrangement" shall mean any individual transaction or arrangement that exceeds or is likely to exceed 10% of the total revenues or total expenses or total assets or total
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	liabilities, as the case may be, of the material unlisted subsidiary for the immediately preceding accounting year. **Explanation (iii):** Tor the purpose of sub-clause (V), where a listed holding company has a listed subsidiary which is itself a holding company, the above provisions shall apply to the listed subsidiary insofar as its subsidiaries are concerned.
VI. Risk Management	A. The company shall lay down procedures to inform Board members about the risk assessment and minimization procedures. B. The Board shall be responsible for framing, implementing and monitoring the risk management plan for the company. C. The company through its Board of Directors shall constitute a Risk Management Committee. Thy Board shall define the roles and responsibilities .of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit. D. The majority of Committee shall consist of members of the Board of Directors. E. Senior executives of the company may be members of the said Committee but the Chairman of the Committee shall be a member of the Board of Directors.
VII. Related Party Transactions	A. A related party transaction is a transfer of resources, services or obligations between a company and a related party, regardless of whether a price is charged. Explanation; A "transaction" with a related party shall be construed to include single transaction or a group of transactions in a contract. B. For the purposes of Clause 49(VII) an entity stall be considered as related to the company if: (i) such entity is a related party under Section 2.(76) of the Companies Act, 2013; or (ii) such entity is a related party under the **applicable accounting standards.** C. The company shall Formulate a policy on materially of Related Party Transactions and also on dealing with Related Party Transactions. Provided that a transition with a related party shall be considered material if the transaction / transaction:; to be entered into individually or taken together with previous transactions during a financial year**, exceeds ten percent** of the annual consolidated turnover of the company as per the last audited financial statements of the company. D. All Related Party transactions shall require **prior approval of the Audit Committee.** However, the Audit Committee may grant omnibus approval for Related Party transactions proposed to be entered into by the company subject to the following conditions: i. The Audit Committee shall lay down the criteria for granting the omnibus approval in line with the policy on Related Party Transactions of the company and such approval shall be applicable in respect of transactions which are repetitive in nature. ii. The Audit Committee shall satisfy itself the need for such omnibus approval and that such approval is in the interest of the company; iii. Such omnibus approval shall specify (i) the name/s of the related party,

	nature of transaction, period of transaction, maximum amount of transaction that can be entered into, (ii) the indicative base price / current contracted price and the formula for variation in the price if any and (iii) such Other conditions as the Audit Committee may deem fit; ***Provided that where the need for Related Party Transaction cannot be foreseen and aforesaid details are not available, Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding Rs.1 crore per transaction*** iv. Audit Committee shall review, at least on a quarterly basis, the details Of RPTs entered into by the 'company pursuant to each of the omnibus approval given; v. Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year E. All material Related Party Transactions shall require approval of the shareholders through special resolution and the related parties shall abstain fr'drh voting on such resolutions. Provided that sub-clause 49 (VII)(D) and (E) shall not be applicable in the following cases: (i) transactions entered into between two government companies; (ii) transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company arid placed before the shareholders at the general meeting for approval. **Explanation (i):** For the purpose of Clause 49(Vll), "Government company" shall have the same meaning as defined in Section 2(45) of the Companies Act, 2013." **Explanation(ii): For** the purpose of Clause 49(Vil), all entities falling under the definition of related parties shall abstain from voting Irrespective of whether the entity is a party to the particular transaction or hot.

Villi Disclosures	
A related party transactions	(i) Details of all material transactions with related parties shall be disclosed quarterly along with the compliance report on corporate governance. (ii) The company shall disclose the policy on dealing with Related Party Transactions on its website and a web link thereto shall be provided in the Annual Report.
S. Disclosure of Accounting Treatment	Where in the preparation of financial statements, a treatment different from that prescribed in an Accounting Standard has been followed, the fact shall be disclosed in the financial statements; together with the management's explanation as to why it beliefs such alternative treatment is more representative of the true and fair view of the underlying business transaction in the Corporate Governance Report.

C. Remuneration of Directors	1. **All pecuniary relationship** or transactions of the non-executive directors vis-a-vis the company shall be disclosed in the Annual Report. 2. In addition to the disclosures required under the Companies Act, 2013, the following disclosures **on the remuneration of directors** shall be made in the section on the corporate governance of the Annual Report: i. All elements of remuneration package of individual directors summarized under major groups, such as salary, benefits, bonuses, stock options, pension etc. ii. Details of fixed component and performance linked incentives, along with the performance criteria. iii. Service contracts, notice period, severance fees. iv. Stock option details, if any - and whether issued at a discount as well as the period over which accrued and over which exercisable. 3. The company shall publish its criteria of making payments to non-executive directors in its annual report. Alternatively, this may be put up on the company's website and reference drawn thereto in the annual report. 4. The company shall disclose the number of shares and convertible instruments held by nonexecutive directors in the annual report. 5. Non-executive directors shall be required to disclose their shareholding (both own or held by / for other persons on a beneficial basis) in the listed company in which they are proposed to be appointed as directors, prior to their appointment. These details should be disclosed in the notice to the general meeting called for appointment of such director
D. Management	1. As part of the directors' report or as an addition thereto, a Management Discussion and Analysis report should form part of the Annual Report to the shareholders. This Management Discussion & Analysis should include discussion on the following matters within the limits set by the company's competitive position: i. Industry structure and developments. ii. Opportunities and Threats. iii. Segment-wise or product-wise performance. iv. Outlook v. Risks and concerns. vi. Internal control systems and their adequacy. vii. Discussion on financial performance with respect to operational performance. viii. Material developments in Human Resources / Industrial Relations front, including number of people employed. 2. Senior management shall make disclosures to the board relating to all material financial and commercial transactions, where they have personal interest, that may have a potential

	conflict with the interest of the company at large (for e.g. dealing in company shares, commercial dealings with bodies, which have shareholding of management and their relatives etc.) ***Explanation: For this purpose, the term "senior management" shall mean personnel of the company who are members of its core management team excluding the Board of Directors).*** ***This would also include all members of management one level below the executive directors including all functional heads.*** 3. 3. The Code of Conduct for the Board of Directors and the senior management shall be disclosed on the website of the company.
E. Shareholders	1. In case of the appointment of a new director or re-appointment of a director the shareholders must be provided with the following information: (i) A brief resume of the director; (ii) Nature of his expertise in specific functional areas; (iii) Names of companies in which the person also holds the directorship and the membership of Committees of the Board; and (iv) Shareholding of non-executive directors as stated in Clause 49 (IV) (E) (v) above 2. **Disclosure of relationships** between directors inter-se shall be made in the Annual Report, notice of appointment of a director, prospectus and letter of offer for issuances and any related filings made to the stock exchanges where the company is listed. 3. **Quarterly results** and presentations made by the company to analysts shall be put on company's web-site, or shall be sent in such a form so as to enable the stock exchange on which the company is listed to put it on its own web-site. 4. A committee under the Chairmanship of a non-executive director and such other members as may be decided by the Board of the company shall be formed to specifically look into the **redressal of grievances of shareholders**, debenture holders and other security holders. This Committee shall be designated as 'Stakeholders Relationship Committee' and shall consider and resolve the grievances of the security holders of the company including complaints related to transfer of shares, non-receipt of balance sheet, non-receipt of declared dividends. 5. **To expedite the process of share transfers**, the Board of the company shall delegate the power of share transfer to an officer or a committee or to the registrar and share transfer agents. The delegated authority shall attend to share transfer formalities at least once in a fortnight.
I. Proceeds from public issues, rights issue,	➲ When money is raised through an issue (public issues, rights issues, preferential issues etc.), the company shall disclose

preferential issues, etc.	the uses / applications of funds by major category (capital expenditure, sales and marketing, working capital, etc), on a quarterly basis as a part of their quarterly declaration of financial results to the Audit Committee. ➲ Further, on an annual basis, the company shall prepare a statement of funds utilized for purposes other than those stated in the offer document / prospectus / notice and place it before the audit committee. ➲ Such disclosure shall be made only till such time that the full money raised through the issue has been fully spent. This statement shall be certified by the statutory auditors of the company. Furthermore, where the company has appointed a monitoring agency to monitor the utilization of proceeds of a public or rights issue, it shall place before the Audit Committee the monitoring report of such agency, upon receipt, without any delay. The audit committee shall make appropriate recommendations to the Board to take up steps in this matter.
IX. CEO/CFO certification	
	The CEO or the Managing Director or Manager or in their absence, a Whole Time Director appointed in terms of the Companies Act, 2013 and the CFO shall certify to the Board that: a. They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief: i. these statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading; ii. these statements together present a true and fair view of the company's affairs and are in compliance with existing accounting standards, applicable laws and regulations. b. There are, to the best of their knowledge and belief, no transactions entered into by the company during the year which are fraudulent, illegal or volatile of the company's code of conduct. C. They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control systems of the company pertaining to financial reporting and they have disclosed to the auditors and the Audit Committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies. D. They have indicated to the auditors and the Audit committee: 1. significant changes in internal control over financial reporting during the year; 2. significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial

	statements; and 3. instances of significant fraud Of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the company's internal control system over financial reporting.
X. Report on Corporate Governance	a. There shall be a **separate section on Corporate Governance** in the Annual Reports of company, with a detailed compliance report on Corporate Governance. Noncompliance of any mandatory requirement of this clause with reasons thereof and the extent to which the non-mandatory requirements have been adopted should.be **specifically highlighted**. b. The companies shall submit **a quarterly compliance report** to the stock **exchanges within 15 days from the close of quarter**. The report shall be signed either by the Compliance Officer or the Chief Executive Officer of the company.
XI. Compliance	A. The company shall obtain a certificate from either the **auditors or practicing company secretaries** regarding compliance of conditions of corporate governance as stipulated in this clause and annex the certificate with the directors' report, which is sent annually to all the shareholders of the company. The same certificate shall also be sent to the Stock Exchanges along with the annual report filed by the company. B. The non-mandatory requirements may be implemented as per the discretion of the company. However, the disclosures of the compliance with mandatory requirements and adoption (and compliance) / non-adoption of the non-mandatory requirements shall be made in the section on corporate governance of the Annual Report.

PREVIOUS YEARS QUESTIONS

Q: Write short note on: CEO/CFO Certification to the Board.[MAY 10 – OLD}

Audit Committee under Section 177 of the Companies Act, 2013

This is in addition to the creation of Audit Committee under section 177 of the Companies Act, 2013, the main features of which as per the provision is outlined below:

(i) As per section 177, every listed company and the following classes of companies shall constitute an Audit Committee -

(a) all public companies with a paid up capital of ten crore rupees or more;

(b) all public companies having turnover of one hundred crore rupees or more;

(c) all public companies, having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding fifty crore rupees or more.

Explanation- The paid up share capital or turnover or outstanding loans, or borrowings or debentures or deposits, as the case may be, as existing on the date of last audited Financial Statements shall be taken into account for the purposes of this rule.
Where a company is required to constitute an Audit Committee under section 177, all appointments, including the filling of a casual vacancy of an auditor under this section shall be made after taking into account the recommendations of such committee.

(ii) The Audit Committee shall consist of a minimum of three directors with independent directors forming a majority. It may be noted that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.

Functions of the Audit Committee as per Section 177 of the Companies Act, 2013:

(A) As per Section 177(4), every Audit Committee shall act according to the terms of reference specified in writing by the Board which includes—

(1) the recommendation for **appointment**, remuneration and terms of appointment of auditors of the company;

(2) **Review** and monitor the auditor's independence and performance, and effectiveness of audit process;

(3) **Examination** of the financial statement and the auditors' report thereon;

(4) **Approval** or any subsequent modification of transactions of the company with related parties;

(5) **scrutiny** of inter-corporate loans and investments;

(6) **valuation** of undertakings or assets of the company, wherever it is necessary;

(7) **evaluation** of internal financial controls and risk management systems;

(8) **monitoring** the end use of funds raised through public offers and related matters.

(B) The Audit Committee may **call for the comments of the auditors about internal control systems**, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.

(C) The Audit Committee shall have authority to **investigate into any matter** in relation to the items specified referred above to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.

(D) Every listed company or such class or classes of companies, as may be prescribed, shall establish a **vigil mechanism** for directors and employees to report genuine concerns in such manner as may be prescribed.

COMPARISON OF AUDIT COMMITTEE REQUIREMENTS AS PER CLAUSE 49 AND SECTION 292A

	Clause 49 of Listing Agreement	**Section 177 of the Companies Act, 2013**
Applicability	To all companies whose equity shares are listed on a recognized stock exchange. Compliance with the provision of clause 49 shall not be mandatory in respect of following class of companies: 1) Companies having ***paid up capital not exceeding Rs. 10 Crore*** and ***Net Worth not exceeding Rs. 25 Crore*** as on the last day of previous financial year. If Clause 49 becomes applicable at a later date, such company shall comply with the requirement of clause 49 ***within 6 months*** from the date on which provisions become applicable. 2) Companies whose equity share capital is listed exclusively on the SME and SME-ITP Platform.	The BoD of every ***listed company*** and such other ***class or classes of companies*** as may be ***prescribed***, shall constitute an Audit Committee **<u>Prescribed Companies:</u>** **1)** All ***public companies*** with a ***paid up capital*** of ***Rs. 10 crore or more***. **2)** All ***public companies*** having ***turnover*** of ***Rs. 100 crore or more***. 3) All ***public companies***, having in ***aggregate, outstanding loans or borrowings or debentures or deposits exceeding Rs. 50 crore or more***
Member Composition	Minimum 3 directors shall be members, 2/3rd of the members of audit committee shall be independent directors.	Audit Committee shall consist of ***not less than 3 directors*** (i.e. ***3 or more***) with independent directors forming a majority.
Knowledge of Members	All members shall be financially literate	Majority of members should be financially literate
Chairman	The Chairman shall be an independent director	The Act does not prescribe the manner the chairman of committee shall be elected.
Interaction of Statutory Auditor	A representative of the external auditor when required shall be present as invitee for the meetings of the Audit	The auditor shall attend and participate at meetings of the audit committee, but has no right to vote.

	Committee	
Secretary	Company Secretary will work as Secretary of audit committee	No Such reference
No. of meeting	Al least 4 meetings in a FY	No such reference
Quorum of Meeting	The quorum shall be either 2 members or 1/3 of the members of the Audit Committee whichever is greater, but there should be a minimum 2 independent members at present	No such reference
Chairman to attend AGM	The Chairman of the Audit Committee shall be present at AGM to answer shareholder queries	In the Companies Act, 2013 the requirement that chairman of Audit Committee shall attend the AGM of the company ***has been dispensed with***

Definition:

Executive directors:

A working director of an organization who is usually also its full-time employee, and has a specified decision making role as director of finance, marketing, operations, etc., on an on-going basis.

Nonexecutive directors

Non-working director of a firm who is not an executive director and, therefore, does not participate in the day-to-day management of the firm. He or she is usually involved in planning and policy making, and is sometimes included to lend prestige to the firm due to his or her standing in the community. Non-executive directors are expected to monitor and challenge the performance of the executive directors and the management, and to take a determined stand in the interests of the firm and its stakeholders. They are generally held equally liable as the executive directors under certain statutory requirements such as tax laws. Also called external director, independent director, outside director, or director at large.

Examination Questions-

Dishonest Limited, a Company incorporated in India has six members in its Audit Committee. Due to recessionary conditions in India, the revenue of the Company is going down and there is slow down in other activities of the Company.
Therefore, it was expected that there would not be significant work for members of the Audit Committee. Considering the overall recession in the Company and the economy, the members of the Committee decided unanimously to meet once in a year only on 31st March 2013. They reviewed monthly information system of the Company and found no errors. As an Auditor of Dishonest Limited would you consider the decision taken by the Audit Committee is in line with the Clause 49 of the (SEBI) Listing Agreement?**(Nov-2013)**

Question-

Mr. 'U', a respectable Chartered Accountant of international repute was requested by one of the major corporates in India to join its Board and also a Chairman of Audit Committee. He expressed his apprehensions that he is not having the requisite experience. Mr. 'U' seeks your view on the responsibility of Audit Committee vis -à-vis the review of Financial Statements.**(May-2014)**

Tax Audit

A. Basics

Issues	Points to remember	Page
Tax Audit u/s 44AB	1. **Applicability:** (a) Total sales or turnover or gross receipts exceeds Rs. 1CR , (b) Gross receipts of profession exceeds Rs. 25 Lakhs, (c) Business referred to u/s 44AD/ 44AE/ 44AF/ 44BB/ 44BBB, declaring lower income. 2. **Audit:** By an Accountant u/s 288. 3. **Specified date for filling for Report:** 30st Sept. of relevant assessment year. 4. **Forms:** Business or Profession + Audit under law = Form 3CA & 3CD Business or Profession, not being a person referred above = 3CB & 3CD 5. Tax Audit can be conducted only in respect of the Financial Year.	
Appointment of Tax Auditor	1. A CA in practice or a CA Firm can be appointed as Tax Auditor. 2. Employee of an assessee or employee under the same management cannot be a Tax Auditor. 3. Tax Audit of a CA Firm cannot be conducted by any Partner or Employee.	
B. REPORTING ASPECTS		

Methods of Accounting & Accounting Standards (Sec. 145)

Sec. 145 (1)	❖ Income chargeable under the head 'PGBP' or 'Other sources' shall, be computed ❖ In accordance with either **cash or mercantile system** of accounting regularly employed by the assessee.
Sec. 145 (2)	❖ The C.G. may notify in the Official Gazette from time to time ❖ AS to be followed by any class of assessees or in respect of any class of income.
Sec. 145(3)	❖ Where the A.O. is not satisfied about the correctness or completeness of the accounts of the assessee, or where method of accounting provided u/s 145(1) or AS as notified u/s 145(2) have not been regularly followed by the assessee, ❖ The A.O. **may make an assessment in a manner provided in Sec. 144** of the Income-tax Act. **The Central Government has prescribed the following AS:** **AS I** Disclosure of accounting policies. **AS II** Disclosure of Prior Period and Extraordinary Items and Changes in Accounting Policies. The above ASs are to be followed by all Assessee following mercantile system of accounting. Therefore, it is clear that those assessees who are following cash system of accounting need not follow the ASs notified above.
Auditor's Duties	To ensure compliance of section 145, the auditor has to **ensure the following:** ❖ The entity follows either the **Cash or Accrual method** of Accounting. ❖ **Accounting Policies** as required by AS (IT) -1 has been disclosed separately. ❖ **Other provisions** of AS 1 (IT) and AS (IT) -2 have been complied with.

PREVIOUS YEARS QUESTION

***Question 1*: As the tax auditor of a non-corporate entity u/s 44AB of the Income –tax Act 1961, how would you ensure compliance of section 145 of the Income-tax Act 1961?**

***Question 2*: Discuss briefly Accounting standards to be followed by assesses under the Income-tax Law.**

***Question 3*: A Co-operative Society having receipts above Rs 60 lakhs gets its accounts audited by a person eligible to do audit under Co-operative Societies Act, 1912 who is not a C.A. state with reasons whether such audit report can be furnished as tax audit report u/s 44AB of the Income-tax Act, 1961**

***Answer*:** Proviso to Sec. 44AB lays down that where the accounts of an assesses are required to be audited by or under any other law, it shall be sufficient compliance with the provisions of this section if such person get the accounts of such organization audited under such other law before the specified date and furnishes by the date the report of the audit as required under such other law and a further report by an Accountant in the from prescribed under this section.

In the case of any assesses like co-operative society where the accounts under the relevant law are allowed to be audited by a person other than a C.A. the statutory auditor need not be a C.A.

Thus it shall be sufficient compliance with the provision of this section and can be considered under section 44AB

***Question 4*: Mr. A engaged in business as a sole proprietor presented the followed information to you for the FY 2012-13. Turnover made during the year Rs. 124 lakhs . Goods returned in respect of sales made during FY 2011-12 is Rs 20 lakhs not included in the above. Cash discount allowed to his customers Rs. 1 Lakhs for prompt payment. Special rebate allowed to customer in the nature of trade discount Rs. 5 lakhs. Kindly advise him whether he has to get his accounts audited u/s 44AB of the Income-Tax Act, 1961.**

- ***Answer*:** Turnover during the year 124
- **Less: Special Rebate to Customers in the nature of Trade discount (5)**
- **Net Turnover for the purpose of Sec. 44AB <u>119</u>**
- **Note:**
- **• Cash Discount for prompt payment, not shown in the Invoice, shall not be reduced from Turnover.• No adjustment is required in respect of Sales Returns ` 20 Lakhs, since the question states that it is not included in the Turnover.**
- Alternative View: It can also be assumed that ‘ 20 Lakhs Sales Returns is yet to be netted off against Sales of ‘ 124Lakhs. In such case, the

Turnover will be 124 – 20 – 5 = ‘ 99 Lakhs. Tax Audit u/s 44AB is not applicable in such case.

FORM NO. 3CA

[See rule 6G(1)(a)]

Audit report under section 44AB of the Income - tax Act, 1961, in a case where the accounts of the business or profession of a person have been audited under any other law

*I / we report that the statutory audit of M/s. _________________ (Name and address of the asseessee with Permanent Account Number) was conducted by *me / us / M/s. ____in pursuance of the provisions of the____________________________Act, and*I/we annex hereto a copy of *my / our / their audit report dated ________________________along with a copy of each of :-

(a) the audited *profit and loss account / income and expenditure account for the period beginning from ----------------------to ending on -----------------------------.

(b) the audited balance sheet as at, _____; and

(c) documents declared by the said Act to be part of, or annexed to, the *profit and loss account / income and expenditure account and balance sheet.

2. The statement of particulars required to be furnished under section 44AB is annexed herewith in Form No. 3CD.

3. In *my / our opinion and to the best of *my / our information and according to examination of books of account including other relevant documents and explanations given to *me / us, the particulars given in the said Form No.3 CD are true and correct subject to the following observations/qualifications, if any:

a.

b.

c.

....
**(Signature and stamp/Seal of the signatory)

Place : ______________ Name of the signatory ....

Date : ______________ Full address ....

Notes :

4. The person who signs this audit report shall indicate reference of his membership number / certificate of practice / authority under which he is entitled to sign this report.

FORM NO. 3CB
[See rule 6G(1)(b)]
Audit report under section 44AB of the Income - tax Act 1961,
in the case of a person referred to in clause (b) of sub - rule (1) of rule 6G

1. *I / we have examined the balance sheet as on, ____, and the *profit and loss account / income and expenditure account for the period beginning from ----------------------to ending on -----------------., attached herewith, of _______________________________(Name), _______________(Address), ____________(Permanent Account Number).

2. *I / we certify that the balance sheet and the *profit and loss / income and expenditure account are in agreement with the books of account maintained at the head office at _____________ and ** ___________ branches.

3.(a) *I / we report the following observations / comments / discrepancies / inconsistencies; if any:

(b) Subject to above, -

(A) *I / we have obtained all the information and explanations which, to the best of *my / our knowledge and belief, were necessary for the purpose of the audit.

(B) In *my / our opinion, proper books of account have been kept by the head office and branches of the assessee so far as appears from*my / our examination of the books.

(C) In *my / our opinion and to the best of *my / our information and according to the explanations given to *me / us, the said accounts, read with notes thereon, if any, give a true and fair view :-

(i) in the case of the balance sheet, of the state of the affairs of the assessee as at 31st March, ;and

(ii) in the case of the *profit and loss account / income and expenditure account of the *profit / loss or *surplus / deficit of the assessee for the year ended on that date.

4. The statement of particulars required to be furnished under section 44AB is annexed herewith in Form No.3CD.

5. In *my/our opinion and to the best of *my / our information and according to explanations given to *me / us, the particulars given in the said Form No.3 CD are true and correct subject to following observations/qualifications, if any:

a.

b.

c.

....
***(Signature and stamp/seal of the signatory)

Place : ______________ Name of the signatory ....

Date : ______________ Full address ....

FORM NO. 3CD

[See rule 6 G(2)]

Statement of particulars required to be furnished under section 44AB of the Income Tax Act, 1961

PART - A

1. Name of the assessee

2. Address

3. Permanent Account Number (PAN)

4. Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty,etc. if yes, please furnish the registration number or any other identification number allotted for the same

5. Status

6. Previous year from……………..to ……………

7. Assessment year

8. Indicate the relevant clause of section 44AB under which the audit has been conducted

PART - B

9. (a) If firm or association of persons, indicate names of partners/members and their profit sharing ratios.

(b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change

10. (a) Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession)

(b) If there is any change in the nature of business or profession, the particulars of such change.

11. (a) Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed.

(b) List of books of account maintained and the address at which the books of accounts are kept.

(In case books of account are maintained in a computer system, mention the books of account generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.)

(c) List of books of account and nature of relevant documents examined.

12. Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section.)

13.(a) Method of accounting employed in the previous year

(b) Whether there had been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year.

(c) If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss.

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

(d) Details of deviation, if any, in the method of accounting employed in the previous

year from accounting standards prescribed under section 145 and the effect thereof on the profit or loss.

14. (a) Method of valuation of closing stock employed in the previous year.

(b) In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish:

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

15. Give the following particulars of the capital asset converted into stock-in trade: -

(a) Description of capital asset;

(b) Date of acquisition;

(c) Cost of acquisition;

(d) Amount at which the asset is converted into stock-in-trade.

16. Amounts not credited to the profit and loss account, being, -

(a) the items falling within the scope of section 28;

(b) the pro forma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned;

(c) escalation claims accepted during the previous year;

(d) any other item of income;

(e) capital receipt, if any.

17. Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish:

Details of property	Consideration received or accrued	Value adopted or assessed or assessable

18. Particulars of depreciation allowable as per the Income Tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the following form :-

(a) Description of asset/block of assets.

(b) Rate of depreciation.

(c) Actual cost of written down value, as the case may be.

(d) Additions/deductions during the year with dates; in the case of any addition of an asset, date put to use; including adjustments on account of –

i) Central Value Added Tax credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets acquired on or after 1st March, 1994,

ii) change in rate of exchange of currency, and

iii) subsidy or grant or reimbursement, by whatever name called.

(e) Depreciation allowable.

(f) Written down value at the end of the year

19. Amounts admissible under sections:

Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income Tax Act, 1961 and also fulfils the conditions, if any specified under the the conditions, if any specified under the relevant 14provisions of Income Tax Act, 1961 or Income Tax Rules,1962 or any other guidelines, circular, etc., issued in this behalf.
32AC		
33AB		
33ABA		
35(1)(i)		
35(1)(ii)		
35(1)(iia)		
35(1)(iii)		

35(1)(iv)		
35(2AA)		
35(2AB)		
35ABB		
35AC		
35AD		
35CCA		
35CCB		
35CCC		
35CCD		
35D		
35DD		
35DDA		
35E		

20. (a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)]

(b) Details of contributions received from employees for various funds as referred to in section 36(1)(va):

Serial number	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities

21. (a) Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure etc

Nature	Serial number	Particulars	Amount in Rs.

Expenditure incurred at clubs being cost for club services and facilities used.			
Expenditure by way of penalty or fine for violation of any law for the time being force			
Expenditure by way of any other penalty or fine not covered above			
Expenditure incurred for any purpose which is an offence or which is prohibited by law			

(b) Amounts inadmissible under section 40(a):-

(i) as payment to non-resident referred to in sub-clause (i)

(A) Details of payment on which tax is not deducted:

(I) date of payment

(II) amount of payment

(III) nature of payment

(IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)

(I) date of payment

(II) amount of payment

(III) nature of payment

(IV) name and address of the payee

(V) amount of tax deducted

(ii) as payment referred to in sub-clause (ia)

(A) Details of payment on which tax is not deducted:

(I) date of payment

(II) amount of payment

(III) nature of payment

(IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub- section (1) of section 139.

(I) date of payment

(II) amount of payment

(III) nature of payment

(IV) name and address of the payer

(V) amount of tax deducted

(VI) amount out of (V) deposited, if any

(iii) under sub-clause (ic) [Wherever applicable]

(iv) under sub-clause (iia)

(v) under sub-clause (iib)

(vi) under sub-clause (iii)

(A) date of payment

(B) amount of payment

(C) name and address of the payee

(vii) under sub-clause (iv)

(viiii) under sub-clause (v)

(c) Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/40(ba) and computation thereof;

(d) Disallowance/deemed income under section 40A(3):

(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details:

Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft If not, please furnish the details of amount deemed to be the profits and gains of business or profession under section 40A(3A);

Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

(e) provision for payment of gratuity not allowable under section 40A(7);

(f) any sum paid by the assessee as an employer not allowable under section 40A(9);

(g) particulars of any liability of a contingent nature;

(h) amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income;

(i) amount inadmissible under the proviso to section 36(1)(iii).

22. Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

23. Particulars of payments made to persons specified under section 40A(2)(b).

24. Amounts deemed to be profits and gains under section 32AC or 33AB or 33ABA or

33AC.

25. Any amount of profit chargeable to tax under section 41 and computation thereof.

26. In respect of any sum referred to in clause (a),(b), (c), (d), (e) or (f) of section 43B, the liability for which:-

(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was

(a) paid during the previous year;

(b) not paid during the previous year;

(B) was incurred in the previous year and was

(a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);

(b) not paid on or before the aforesaid date.

(State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.)

27. (a) Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts. (b) Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

28. Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia), if yes, please furnish the details of the same.

29. Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.

30. Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]

31. *(a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :-

(i) name, address and permanent account number (if available with the assessee) of the lender or depositor;

(ii) amount of loan or deposit taken or accepted;

(iii) whether the loan or deposit was squared up during the previous year;

(iv) maximum amount outstanding in the account at any time during the previous year;

(v) whether the loan or deposit was taken or accepted otherwise than by an account payee cheque or an account payee bank draft.

*(These particulars needs not be given in the case of a Government company, a banking company or a corporation established by a Central, State or Provincial Act.)

(b) Particulars of each repayment of loan or deposit in an amount exceeding the limit specified in section 269T made during the previous year :-

(i) name, address and Permanent Account Number (if available with the assessee) of the payee;

(ii) amount of the repayment;

(iii) maximum amount outstanding in the account at any time during the previous year;

(iv) whether the repayment was made otherwise than by account payee cheque or account payee bank draft.

(c) Whether the taking or accepting loan or deposit, or repayment of the same were made by account payee cheque drawn on a bank or account payee bank draft based on the examination of books of account and other relevant documents

(The particulars (i) to (iv) at (b) and comment at (c) above need not be given in the case of a repayment of any loan or deposit taken or accepted from Government, Government company, banking company or a corporation established by a Central, State or Provincial Act)

32.(a) Details of brought forward loss or depreciation allowance, in the following manner, to the extent available :

Serial Number	Assessment Year	Nature of loss / allowance (in rupees)	Amount as returned (in rupees)	Amounts as assessed (give reference to relevant order)	Remarks

(b) Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.

(c) Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year, If yes, please furnish the details of the same.

(d) whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same.

(e) In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.

33. Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).

Section under which deduction is claimed	Amounts admissible as per the provision of the Income Tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income Tax Act, 1961 or Income Tax Rules,1962 or any other guidelines, circular, etc, issued in this behalf.

34. (a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:

Tax deduction and collection Account Number (TAN)	Section	Nature of payment	Total amount of payment or receipt of the nature	Total amount on which tax was required to be deduct	Total amount on which tax was deducted or collecte	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collecte	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected not deposited to the

			specified in column (3)	ed or collected out of (4)	d at specified rate out of (5)		d at less than specified rate out of (7)		credit of the Central Government out of (6) and (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

(b) whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. If not, please furnish the details:

Tax deduction and collection Account Number (TAN)	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported

(c) whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:

Tax deduction and collection Account Number (TAN)	Amount of interest under section 201(1A)/206C(7) is payable	Amount paid out of column (2) along with date of payment.

35. (a) In the case of a trading concern, give quantitative details of principal items of goods traded :

(i) Opening Stock;

(ii) purchases during the previous year;

(iii) sales during the previous year;

(iv) closing stock;

(v) shortage/excess, if any

(b) In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products :

A. Raw Materials :

(i) opening stock;

(ii) purchases during the previous year;

(iii) consumption during the previous year;

(iv) sales during the previous year;

(v) closing stock;

(vi) yield of finished products;

(vii) percentage of yield;

(viii) shortage/excess, if any.

B. Finished products/by- products :

(i) opening stock;

(ii) purchases during the previous year;

(iii) quantity manufactured during the previous year;

(iv) sales during the previous year;

(v) closing stock;

(vi) shortage/excess, if any.

36. In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form :-

(a) total amount of distributed profits;

(b) amount of reduction as referred to in section 115-O(1A)(i);

(c amount of reduction as referred to in section 115-O(1A)(ii);

(d) total tax paid thereon;

(e) dates of payment with amounts.

37. Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.

38. Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

39. Whether any audit was conducted under section 72A of the Finance Act,1994 in relation to valuation of taxable services, Finance Act,1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

40. Details regarding turnover, gross profit, etc., for the previous year and preceding previous year:

Serial number	Particulars	Previous year	Preceding previous year
1.	Total turnover of the assessee		

2.	Gross profit/turnover		
3.	Net profit/turnover		
4.	Stock-in-trade/turnover		
5.	Material consumed/finished goods produced		

(The details required to be furnished for principal items of goods traded or manufactured or services rendered)

41. Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 alongwith details of relevant proceedings.

……………..

*(Signature and stamp/Seal of the signatory)

Place : ______________
………………………

Name of the signatory

Date : ______________
………………………………….

Full address

Notes :

1. *This Form has to be signed by the person competent to sign Form No. 3CA or Form No. 3CB, as the case may be.

PREVIOUS YEARS QUESTION

*Question 5***As a tax auditor, which are the accounting ratios required to be mentioned in the report in case of manufacturing entities? Explain in detail any one of the above ratios and how does it help the tax auditor in this analytical review.** ***[Nov 2005-8 Marks]***

Answer Accounting ratios with calculations as follows

a) Gross Profit / Turnover
b) Net Profit / Turnover
c) Stock in Trade / Turnover
d) Material consumed / Finished Goods Produced.

The ratios have to be calculated ***only for assessees, who are engaged in manufacturing or trading activities.*** This clause is ***not applicable*** to assessees ***carrying on profession***. Moreover the ratios have to be given for the business ***as a whole*** and ***need not be given product wise.***

Ratio Analysis: The auditor employs a number of techniques to assess the reliability and validity of accounting data. Ratio analysis is one of such techniques and valuable tool for overall assessment. Ratio analysis constitutes a substantive auditing procedure designed to obtain evidence as assessment is necessary in organization having large volume of transactions and in those organizations following mechanized accounting system where it is not possible to check each and every transaction. It has the merit of bringing to focus the abnormal deviations and unexpected variation which the normal routine checking in auditing may fail to reveal. Infact the underlying problems and distortions are brought to light by this procedure. Ratio shows the arithmetical relationship between any two figures. Therefore, calculation and analysis or ratio focuses attention on inter-relationship between the figures appearing in the financial statements.

Question 6 **As a tax auditor, how would you report on the following?** ***[May 2006]***

a) Labour charges paid on which tax is deducted at source at inappropriate rate. ***[4 Marks]***
b) Capital expenditure incurred for Scientific Research Assets. ***[4 Marks]***

Answer

a) Section 40 (a) of the Income Tax Act, 1961 specifies that amounts payable to a contractor or sub-contractor, being resident, for carrying out any work including supply of labour for carrying out any work on which TDS is to be deducted and such tax has not been deducted or after deduction has not been paid during the previous year or in the subsequent year before the expiry of the time prescribed under section 200(1), shall not be deducted in computing the total income. Therefore, if tax is deducted at an inappropriate rate, the amount is disallowable u/s 40 (a) (ia) of the Income Tax Act.

This fact needs to be reported in clause 21 (b) of Form 3 CD where all amounts inadmissible under section 40 (a) are to be reported.

b) Clause 19 of Form 3CD requires that expenditure on Scientific Research (Capital as well as revenue) covered under section 35 of the Income Tax Act, 1961 reported of the amount debited to the profit and loss account showing the amount debited and deduction allowable. Accordingly, the auditor should exercise his judgment and accordingly report in clause 19.

Question 7 **Write a short note on – Method of Accounting in form No. 3CD of Tax Audit.** ***[May 07- 4 Marks]***

Answer Clause 13 of Form 3CD of the Tax Audit require to state

(a) Method of accounting employed in the previous year.

(b) Whether there has been any change in the method of accounting employed vis-à-vis the method employed in the immediately preceding previous year.

(c) If answer to (b) above is in the affirmative give details of such change and the effect thereof on the profit or loss.

(d) Details of deviation, if nay in the method of accounting employed in the previous year form the accounting standards prescribed under section 145 and the effect thereof on the profit or loss.

Question 8 **Write a short note on – Accounting ratios in form No. 3CD of Tax Audit.** ***[Nov.07 -4 Marks]***

Answer Clause 40 of Form 3CD of the Tax Audit require to state following accounting ratios:

a) Gross Profit / Turnover

b) Net Profit / Turnover

c) Stock in Trade / Turnover

d) Material consumed / Finished Goods Produced.

The ratios have to be calculated ***only for assessees, who are engaged in manufacturing or trading activities.*** This clause is ***not applicable*** to assessees ***carrying on profession***. Moreover the ratios have to be given for the business ***as a whole*** and ***need not be given product wise.***

Question 9 **Answer the following: As the tax auditor of a company how would report on payment exceeding Rs. 20,000 made in case to a supplier against an invoice for expenses booked in an earlier year?** ***[May 08- 5 Marks]***

Answer Such reporting is required to be done while conducting the tax audit u/s 44AB of the Income Tax Act, 1961 in Form 3CD. The Tax auditor shall have to report for clause 21 (d) for the above as per the amended section 40A (3) of the Income Tax Act, 1961.

In the instant case the invoice for expenses has been booked in an earlier year. However, since payment for the same is made during the current year by cash exceeding Rs. 20,000 the reporting thereof would be necessary in clause 21 (d) of Form 3CD. The sub clause (d) required furnishing of the amount inadmissible under section 40A (3) read with rule 6DD along with computation.
The entire amount paid as above is likely to be disallowed u/s 40A(3) of the Income Tax Act, 1961.

Question 10 **State whether a Tax audit report can be revised and if so states those circumstances.** ***[Nov 08- 4 Marks]***

Answer Normally, the report of the tax auditor cannot be revised later. However, when the accounts are revised in the following circumstances, the tax auditor may have to revise his Tax Audit Report also:
a) Revision of accounts of a company after it adaptation in the annual general meeting.
b) Change in law with retrospective effect.
c) Change in interpretation of law, CBDT Circular, Notifications, Judgements, etc.
The Tax Auditor should state it is a revised report, clearly specifying the reasons for such revision with a reference with a reference to the earlier report.

Question 11 **Discuss the reporting requirement in form 3CD of Tax Audit report under Section 44AB of the Income-Tax Act, 1961 for the following.**
a. Tax Deducted at Source
b. Expenditure incurred at the club. ***[Nov 08- 8 Marks]***

Question 12 **State the reporting requirement regarding books of account (prescribed maintained and examined) in form no. 3CD of Tax Audit under Section 44AB of the Income Tax Act, 1961.** ***[May 09 - 8 Marks]***

Answer
Methods of Accounting & Accounting Standards (Sec.145)
Sec. 145(1)
Income chargeable under the head "PGBP" or 'other sources' shall be computed in accordance with either ***cash or mercantile system*** of accounting regularly employed by the assesses.

Sec. 145 (2)
The C.G. may notify in the official Gazette from time to time AS to be followed by any class of assesses or in respect of any class of income. The Central Government has prescribed the following AS:
AS 1 Disclosure of accounting policies

AS 2 Disclosure of prior period and extraordinary items and Changes in accounting Policies.

The above AS is to be followed by all assesses following mercantile system of accounting. ***Therefore, it is clear that those assesses who are following cash system of accounting need not follow the AS notified as above.***

Sec. 145 (3)

Where the A.O. is not satisfied about the correctness or completeness of the accounts of the assesses, or where method of accounting provided u / s 145 (1) or AS as notified u / s 145(2) have not been regularly followed by the assesses the A.O. may make an assessment in a manner provided in sec.144 of the Income Tax Act.

Auditor's Duties

To ensure compliance of section 145, the auditor has to ensure the following:

- The entity follows either the ***cash or Accrual*** method of Accounting.
- Accounting Policies as required by AS (IT)-1 has been disclosed separately.
- Other provision of AS (1) and AS (2)- have been complied with.

Question 13 **ABC Printing Press, a proprietary concern made a turnover of above Rs 43 Lacs for the year ended 31.03.2009. The Management explained its auditor Mr. Z that it undertakes different job work orders from customers. The raw materials required for every job are dissimilar. It purchases the raw materials as per specification / requirement of each customer and there is hardly any balance of raw materials remaining in the stock except pending work-in-progress at the year end. Because of variety and complexity of materials it is rather impossible to maintain a stock-register. Give your comments.** ***[Nov 09- 5 Marks]***

Question 14 **Discuss the reporting requirements in form 3CD of the Tax Audit Report U /S 44AB of the Income –Tax Act 1961 for the Following:**

a. Tax on distributed profits

b. Brought forward loss or deprecation allowance.

Question 19 **Mr. R, the Tax Auditor finds that some payments inadmissible under section 40A (3) were made and advised the client to report the same in form 3CD. The client contends that cash payments were made since the other parties insisted upon the same and did not have Bank Account. Comment** ***[Nov 10 -5 Marks]***

Answer Disallowance under section 40A(3) is attracted if the assessee incurs any expense in respect of which payment of aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on bank or account payee draft exceed Rs. 20,000/-

. However exemption is provided in respect of certain expenditure in Rule 6DD. In such cases, disallowance under section 40A(3) would not be attracted. Cash payment made on insistence of other parties on the contention that they do not have bank accounts is not covered under the list of exemptions provided under Rule 6DD.
Mr. R has to report the payments inadmissible under section 40A (3) under clause 21 (d) of Form 3CD.

<u>Question 15</u> **While conducting the tax audit of A & Co. you observed that it made an escalation claim to one of its customers but which was not accounted as income. What is your reporting responsibility?** ***[May 11- 4 Marks]***

<u>Answer</u> A tax auditor has to report under clause 16 (c) of Form 3CD on any escalation claim accepted during the previous year and not credited to the P&L A/c.
The escalation claim accepted during the year would normally mean "accepted during the relevant previous year." If such amounts are not credited to P&L A/c the fact should be reported.

<u>Question 16</u> **As a tax auditor how would you deal and report the following.**

a) An assesses has borrowed Rs. 50 Lakhs from various persons. Some of them by way of cash and some of them by way of account payee cheque / draft.

b) An assesses has paid rent to his brother Rs. 2,50,000 and paid interest to his sister Rs. 4,00,000.

c) An assesses has incurred payment to clubs. ***[Nov 11-3+2+2=7 Marks]***

<u>Answer</u>

a) As per Clause 31 (a) of Form 3CD the particular of each loan or deposit taken or accepted during the previous year have to be stated in the Tax Audit Report. Further as per Clause 31(c) the tax auditor has to state whether a certificate has been obtained from the assessee regarding taking or accepting loan or deposit, through an account payee cheque or an account payee draft.
Hence, in the given case, where the assessee has borrowed Rs. 50 Lakhs by way of cash and some of them by way of Account payee cheque/draft, needs to be verified and to be reported in compliance with Clause 31 of Form 3CD.

b) A tax auditor has to report under clause 23 of Form 3CD which deals with the particulars of payments made to persons specified under Section 40 A (2) (b)
In the present case, an assessee has paid rent to his brother of Rs. 2,50,000 and interest to his sister of Rs. 4,00,000 may be disallowed, in the opinion of the AO, such expenditure is excessive or unreasonable having regard to:

- FMV of the goods, services or facilities for which the payment is made; or
- For the legitimate needs of business or profession of the assessee; or
- The benefit delivered by or accruing to the assessee from such expenditure.

Hence this fact needs to be reported in the Tax Audit Report accordingly.

c) As per clause 21 (a) of Form 3CD the amount of payments made by the assessee during the year should be indicated. The payment can be for entrance fees as well as membership subscription and for catering and other services by the club, both in respect of directors and other employees in case of employees and for partners or proprietors in other cases. The fact whether such expenses are incurred in the course of business or whether they are of personal nature should be ascertained. If they are personal in nature, they should be shown separately under clause 21 (a).
Therefore, the tax auditor has to report the payments to clubs under clause 21 (a) of Form 3CD.

Question 17 **T Ltd's previous year ended on 31st March 2012. During that period it made a claim for refund of customs duty which was admitted as due by the customs authorities during April 2012. T Ltd. neither credited the claim in the profit and loss account nor reported the same in clause 13 (b) [New Clause 16 (b)] of form 3CD for the reason that this has been admitted as due by the authorities only in the next financial year. Further T Ltd. had changed the method of determination of cost formula for the purpose of stock valuation from FIFO basis to Weighted Average cost basis, but that was also not reflected in clause 11 (b) [New Clause 13(b)] of Form 3CD which requires reporting on change in accounting method employed. Comment.** *[May 12 -6 Marks]*

Answer
As per clause 16 (b) of Form 3CD, the details of the Refund of custom duty, if admitted as due by the concerned authorities but not credited to the P&L A/c, are to be stated. But the Credits/Claims which have been admitted as due after the relevant previous year need not be reported in Form 3CD. In the instant case, the action of T Ltd in not crediting the claim to the profit and loss and also not reporting of the same in clause 16 (b) of Form 3CD is in order.

Further Clause 13 (b) requires reporting when there has been and change in the method of accounting employed in the immediately preceding year. However, change in an accounting policy will not amount to change in the method of accounting and hence such change in the accounting policy need not to mention under clause 16 (b) of Form 3CD.

Hence in the above situation, there is no reporting requirement under clause 16(b) and Clause 13 (b).

Question 18 **As an auditor of a partnership firm under section 44AB of the Income-Tax Act, 1961, how would you report on the following?**
- **Capital expenditure incurred for scientific research assets.**
- **Expenditure incurred at clubs.**

Question 19 **While writing the audit program for tax audit in respect of A Ltd. you wish to include possible instances of capital receipt if not credited to Profit & Loss account Which needs to be reported under clause 13 (e) [New Clause 16 (e)]of Form 3CD. Please elucidate possible instance.**
[May 13-4 Marks]

Answer
The following is an illustrative list of capital receipts which, if not credited to P&L A/c are to be stated under clause 16(e) of Form 3CD.
1) Capital subsidy received in the form of Government grants, which are in the nature of promoter contribution.
2) Government grant in relation to a specific fixed asset which is shown as a deduction from gross value of the assets.
3) Compensation for surrendering certain rights.
4) Profits on sale of fixed asset/investments which is not credited to P&L a/c.

Question 20 **XYZ Ltd pays Rs. 90,000 for its 6 employees to a Hotel as boarding and lodging expenses of such employees for a conference. The Company pays the amount in cash to hotel. The hotel gives 6 bills each amounting to Rs. 15,000. The Company contends that each bill is within the limit, so there is no violation of the provision of Income Tax Act, 1961. As the tax auditor, how would you deal with the matter in your tax audit report for the assessment year 2014-15?**
[Nov 2014 (5 Marks)]

Answer As per Section 40 A (3) payments exceeding Rs. 20,000 otherwise than by account payee cheque or bank draft is disallowed. However, if an assessee makes payment of two different bills at the same time in cash or by bearer or crossed cheque Section 40 A(3) is not applicable even if the aggregate payment is more than Rs. 20,000. This is because of the fact that Section 40A(3) is applicable only in respect of an "expenditure" which is in of Rs. 20,000.
So, in the present case payment exceeds the limit of Rs 20,000 but each bill amount is less than Rs. 20,000, so it will not be disallowed and as there will be any need to report in Tax Audit Report.

Question 20 **Mr. P carries on the business of dealing and export of diamonds. For the year ended 31st march, 2011 you as the tax auditor find that the entire exports are to another firm in U.S.A. which is owned by Mr. P's Brother.**

Question 21 **Mr. X deals in a commodity and purchase and sales of that commodity is ultimately settled otherwise than by the actual delivery. During the financial year 2010-**

11 he purchased the commodity worth Rs. 55 Lakhs and sold the same commodity for Rs 64 Lakhs and the contract was settled otherwise than by the actual delivery. X seeks your advice whether he is liable for tax audit u / s 44AB of the Income tax Act.

<u>Question 22</u> **A leading Jewellery merchant used to value his inventory at cost on LIFO basis However, for the current year. In view of requirement of AS-2, he changed over to FIFO method of valuation. The difference in value of stock amounted to Rs 55 lakhs which is higher than that under the previous method. In such a situation what are the reporting responsibilities of a Tax Audit u / s 44AB of Income Tax Act, 1961.**

Items excluded in Turnover

- Discount allowed in the Sales Invoice.
- Cash Discount allowed in a Sales Invoice.
- Turnover Discount.
- Special Rebate allowed to Customers(deducted from the sales if it is in the nature of trade discount).
- Price of goods returned.
- Sale proceeds of Fixed Assets.
- Sale proceeds of assets held as Investments.
- Rental Income, unless the same is assessable as Business Income.
- Dividends on Shares, except in the case of an assessee dealing in shares.
- Income by way of Interest, unless assessable as Business Income.
- Reimbursement of Customs Duty and other charges collected by a Clearing Agent.
- Advertisement charges received by a Recruiting Agent or Advertising Agent by way of reimbursement of expenses incurred by him.
- Amount received by Travelling Agents from clients, for payment to Airlines, Railways, etc.
- Share of Profit of a Partner of a Firm.
- Write back of amounts payable or provisions which are no longer required.

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Items included in Turnover

- Profit on Sale of Export License / Cash Assistance / Duty Drawback,
- Gross Interest Income received by a Moneylender.
- Reimbursement of expenses incurred (e.g. packing, forwarding, freight, insurance, traveling, etc.) and if the same is credited to a separate account in the books, only the net surplus on this account should be added to Turnover for 44AB purposes.
- Net Exchange Rate difference on Export Sales during the year.
  Hire Charges of Cold Storage Facility.
- Liquidated Damages.
- Insurance Claims - -except for Fixed Assets.
- Sale Proceeds of Scrap, Wastage, etc. unless treated as part of sale or turnover, whether or not credited to Miscellaneous Income Account.
- Hire Charges & Installments received in the course of Hire Purchase.
- Advance received and forfeited from Customers.
- Consolidated amounts received in conducting package tour, incase of a Travel Agent.
- Charges recovered from Clients for bulk booking of advertisement space, in case of

Advertising Agents.

4.4 The following have been listed out as professions in section 44AA and notified thereunder (Notifications No. SO-18(E) dated 12.1.77, No. SO 2675 dated 25.9.1992 and No. SO 385(E), dated 4.5.2001):

- (i) Accountancy
- (ii) Architectural
- (iii) Authorised Representative
- (iv) Company Secretary
- (v) Engineering
- (vi) Film Artists/Actors, Cameraman, Director, Singer, Story-writer, editor,singer, lyricist, dress designer etc.
- (vii) Interior Decoration
- (viii) Legal
- (ix) Medical
- (x) Technical Consultancy
- (xi) Information Technology

Tax Audit- Points to be Noted

- There is no liability of tax audit if the assesses is not covered u /s 44AB.
- If income of an assesses is below the taxable limit. He will also liable to get his account audited, if the turnovers in business exceed the threshold limit.
- Section 44AB not applicable to assesses covered u / s 44B (Shipping Business) and 44BBA (Operation of Aircraft).
- Section 44AB is applicable to NRI also.
- The Audit shall be conducted by a C.A. as explained u / s 288 of the I.T. Act, 1961.
- Tax audit can be conducted either by statutory auditor or by any other CA in full time practice.
- CA accepting the assignment should communicate with CA who had done tax audit in the earlier year as provided in the Chartered Accountants Act, 1949.
- An internal auditor of an assessee, cannot appointed as tax auditor
- The Chartered Accountant should take into consideration the ceiling on tax audit assignment. (60 Audits)
- A tax auditor is required to upload the tax audit report mentioning his membership number.
- A CA should not accept the tax audit of a person to whom he is indebted for more than Rs. 10,000.

Special Audit Techniques -Risk-based Audit

3.1 Concept of audit risk
Audit is the risk that an auditor may give an inappropriate opinion on financial information that is mate misstated. For example, an auditor may give an unqualified opinion on financial statements without knowing that are materially misstated.
1. **Audit risk at the financial statement level** - Audit risk is considered at the financial statement level the audit planning process. At this time, the auditor should undertake an overall audit risk assessment based on his knowledge of the client's business, industry, management, control environment and operations.
2. **Audit risk at the account balance and class of transactions level** - The majority of audit procedure directed to, and carried out at the account balance and class of transaction level. Accordingly, audit should be considered by the auditor at this level taking into account the results of the overall audit assessment made at the financial statement level.
3.2 Risk-based audit
1. Audit should be risk-based or focused on areas of greatest risk to the achievement of the audited objectives.
2. Risk-based audit (RBA) is an approach to audit that analyses audit risks, sets materiality thresholds *bans* audit risk analysis and develops audit programmes that allocate a larger portion of audit resources **to high** risk areas.
3. RBA is an essential element of financial audit- both in the attest audit of the financial statements and in the audit of financial systems and transactions including evaluation of internal controls.
3.3 Audit risk analysis
The auditor should perform an analysis of the audit risks that impact the auditee before undertaking specific ***audit*** procedures. Risk assessment is a subjective process. It is part of the professional judgment of the auditor and **of** particular circumstances.
3.4 Steps in conducting Risk Based Audit
RBA consists ***oifour main phases*** starting with
1. The identification and prioritisation of risks,
2. To the determination of residual risk,
3. Reduction of residual risk to acceptable level and
4. The reporting to auditee of audit results. These are achieved through the following:
1. Understand auditee operations to identify and prioritise risks
2. Assess auditee management strategies and controls to determine residual audit risk
3. Manage residual risk to reduce it to acceptable level
4. Inform the auditee of audit results through appropriate report
3.5 Materiality and audit risk
1. Dictionary defines the term "material" as "important or essential".
2. Whatever is important or essential in a given auditing situation would automatically be materiality relative term and what may be material in one set of circumstances may not be so in another.
3. As per SA 320 on "Materiality in Planning and Performing an Audit", performance materiality means the amount or amounts set by the auditor at less than materiality for the financial statements as a reduce to an appropriately low level the probability that the aggregate of uncorrected and i misstatements exceeds materiality for the financial statements as a whole. If applicable, performance materiality also refers to the amount or amounts set by the auditor at less than the materiality level for particular classes of transactions, account balances or disclosures.

Chapter-7

Accounts of Companies

Chapter IX comprises Sec.128 to Sec.138. The relevant Rules are called Companies (Accounts) Rules, 2014.

1. Books of Accounts [Sec.128]

Particulars	Description
Items to be kept	(1) Books of Accounts, (2) Other relevant Books and Papers, (3) Financial Statements for every Financial Year.
Basic conditions as to Books	(1) True and Fair view of the state of affairs of the Company (and its Branches if any), (2) To explain the transactions effected at Registered Office and Branches, (3) Accrual Basis, and (4) Double Entry System of Accounting.
Place of Keeping	(1) Registered Office, (2) Any other place **in India** as Board of Directors may decide. **Note:** In case of (2) above, a written notice shall be filed with ROC providing full address of other place.
Branch Accounts	1. **For Local or Foreign Branches: [as per Sec.128]** a. Proper books of accounts relating to **Branch's** transactions shall be kept at the Branch. b. Proper Summarized Returns shall be sent **periodically** to the Registered Office, or other place where books are kept. 2. **For Foreign Branches [As per Rules]:** Summarized Returns of the Books of A/c kept and maintained **outside India** shall be sent to the Registered Office at **quarterly intervals**, which shall be kept and maintained at the Registered Office, and kept open to Directors for inspection.
Electronic Form	1. Books of Account and other relevant books and papers maintained in electronic mode shall – a. **remain accessible** in India so as to be usable for subsequent reference. b. be retained completely in the **format** in which they

	were **originally** generated, sent or received, or in a format which shall present accurately the information generated, sent or received and the information contained in the electronic records shall remain complete and unaltered. c. be capable of being displayed in a **legible form**. 2. Information received from Branch Offices **shall not be altered** and shall be kept in a manner where it shall depict what was originally received from the Branches. 3. There shall be a proper system **for storage, retrieval, display or printout** of the electronic records as the Audit Committee, if any, or the Board may deem appropriate and such records shall not be disposed of or rendered unusable, unless permitted by law. 4. At the time of filing of Annual Financial Statements to the ROC, the Company should provide the following information in relation to maintenance of the Electronic Records – a. Name of the Service Provider, b. Internet Protocol Address of Service Provider, c. Location of the Service Provider (wherever applicable), d. Address as provided by Service Provider where the books are maintained on Cloud.
Period	(i) **Normal Period:** Books of Accounts along with vouchers shall be kept by every Company for 8 preceding Financial Years. (ii) **Shorter Period:** The Company in existence less than 8 years, shall maintain books in respect of all such preceding years. (iii) **Longer Period:** If the Central Government has ordered an investigation on the Company, it should maintain the books for such longer period as directed in this regard.
Inspection of Books of A/c– General Points	1. **Items:** Books of Accounts, and the other books and papers maintained. 2. **Inspection:** By any Director. 3. **Place:** Registered Office or other place where they are kept. 4. **Time:** During Business Hours.
Inspection of Books of A/c – Special Points	1. **Foreign Financial Information:** The conditions in this regard are – a. Written Request is required from the Director, **not** by

	or through his Power of Attorney Holder or Agent or Representative. b. The Request shall set out the **full details** of the financial information sought, the **period** for which such information is sought. c. Details relating to Financial Information maintained outside India should be produced for inspection within 15 days from the date of receipt of request. 2. **Subsidiary Books:** Inspection in respect of any Subsidiary of the Company shall be done **only** by the person authorized **specifically** by BOD's Resolution. 3. **Others:** Officers and Employees of the Company shall give all reasonable assistance for the inspection, which the Company can be reasonably expected to give.
Non Compliance of Sec 128	1. **Persons covered:** (a) Managing Director, (b) Whole Time Director in charge of Finance, (c) Chief Financial Officer, (d) Any person authorized by Board of Directors to ensure compliance with Sec.128 2. **Punishment:** a. Imprisonment of maximum 1 year, or b. Fine of Minimum ` 50,000, Maximum ` 5,00,000 or c. Both

2. Financial Statement [Sec.129]

Particulars	Description
Financial Statements [Sec.2(40)]	"**Financial Statement**" in relation to a Company, includes – (1) **A Balance Sheet** as at the end of the Financial Year, (2) **A Profit and Loss Account or an Income and Expenditure Account** (in the case of a Company carrying on any activity not for Profit) for he Financial Year, (3) **Cash Flow Statement** for the Financial Year, (4) **A Statement of Changes in Equity**, if applicable, and (5) **Any Explanatory Note** annexed to, or forming part of, any document referred to above.

<table>
<tr><td></td><td>Note 1: The Financial Statement, with respect to One Person Company, Small Company and Dormant Company, may not include the Cash Flow Statement.

Note 2: Financial Statement shall include any Notes annexed to or forming part of Financial Statements, giving information required to be given and allowed to be given in the form of such Notes.</td></tr>
<tr><td>Basic Requirements as to Financial Statements</td><td>1. Give a true and fair view of the state of affairs of the Company.
2. Comply with the Accounting Standards notified u/s 133, and
Be in the form(s) provided in Schedule III.
4. Items contained in Financial Statements shall be in accordance with the Accounting Standards.</td></tr>
<tr><td>Above Basic requirements, not applicable to</td><td>1. Any Insurance Company, or
2. Any Banking Company, or
3. Any Company engaged in the Generation or Supply of Electricity, or
4.Any other Class of Company for which a form of Financial Statement is specified under the Act governing such class of Company.</td></tr>
<tr><td>Disclosure Exempted under Specific Acts = True and Fair</td><td>1. Where the disclosure of certain matters in Financial Statements are not required under the Governing Act (as listed below), then –
2. Financial Statements shall not be treated as not disclosing a true and fair view of the state of affairs of the Company.
3. Category of Company / Relevant Law:
<table>
<tr><td>Insurance Company</td><td>Insurance Act, 1938, or Insurance Regulatory and Development Authority Act, 1999</td></tr>
<tr><td>Banking Company</td><td>Banking Regulation Act, 1949</td></tr>
<tr><td>Company engaged in the Generation or Supply of Electricity</td><td>Electricity Act, 2003</td></tr>
<tr><td>Any other Class of Company, governed under separate Act, for which a form of Financial Statement is specified under that Act</td><td>That relevant Act</td></tr>
</table></td></tr>
</table>

Transitional Provisions with respect to Accounting Standards	1. Accounting Standards specified under Companies Act, 1956 shall be deemed to be the Accounting Standards until Accounting Standards are specified by the Central Govt u/s 133. 2.Till NAFRA is constituted u/s 132, the Central Government may prescribe the Accounting Standards or any addendum thereto, as recommended by ICAI in consultation with and after examination of the recommendations made by the National Advisory Committee on Accounting Standards constituted u/s 210A of the Companies Act, 1956.
If Fin.Statements do not comply with applicable Accounting Standards	The Company shall disclose in its Financial Statements – 1. The **deviation** from the Accounting Standards, 2. The **reasons for such deviation,** and 3. The **financial effects,** if any, arising out of such deviation.
Presentation at AGM	At every **AGM,** the **Board of Directors** shall lay the Financial Statements for the Financial Year, before such AGM.
Consolidated Financial Statements in respect of Subsidiaries	1. A Company having one or more Subsidiaries, shall, prepare and lay at AGM– (a) Its Own Financial Statements (Separate Financial Statements=SFS), **and** (b) a Consolidated Financial Statement(CFS) of the Company and all its Subsidiaries. 2. CFS shall be in the same form and manner as that of its own, i.e. SFS. 3. The Company shall also attach along with its Financial Statement, a separate Statement containing the salient features of the Financial Statement of its Subsidiary(ies) in **Form AOC–1.** 4. For this purpose, Subsidiary shall include **Associate Company and Joint Venture**. 5. Manner of Consolidation:

<table>
<tr>
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<table>
<tr><th>Particulars</th><th>CFS to be made in accordance with</th></tr>
<tr><td>Required to prepare CFS under AS</td><td>Sch III and Applicable AS</td></tr>
<tr><td>Not Required to prepare CFS under AS</td><td>Only Sch III</td></tr>
</table>
6. The provisions applicable to the preparation, adoption and audit of the Financial Statements of a Holding Company, shall equally be applicable for Consolidated Financial Statements.
</td>
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<tr>
<td>Power of CG to Exempt</td>
<td>
▪ The Central Government may,
▪ on its own or on an application by a class or classes of Companies,
▪ by Notification,
▪ exempt any class or classes of Companies,
▪ from complying with any of the requirements of Sec.129 or the Rules,
▪ if it is considered necessary to grant such exemption in the public interest, and
▪ any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the Notification.
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</tr>
<tr>
<td>Non Compliance of Sec.129</td>
<td>
1. Person covered:
a. Managing Director,
b. Whole Time Director incharge of Finance, (c) Chief Financial Officer,
c. any person authorised by the BOD to ensure Compliance with Sec.129
d. All Directors, in case of absence of any of the Officers in point (a) to (d).
Punishment:
2. (a) Imprisonment of Maximum 1 year, or
(b) Fine of Minimum `50,000, Maximum ` 5,00,000, or
(c) Both.
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</table>

Procedure	1. The Company shall apply to the Tribunal for its approval. 2. Tribunal shall give notice to (a) the Central Government, and (b) Income Tax Authorities, and shall take into consideration the representations, if any, made. 3. Tribunal shall pass an order thereon. 4. A copy of the Tribunal's order shall be filed with the ROC. 5. Board shall effect the revision in Financial Statement / Report as per above order.
Power of CG to make Rules [Sec. 131(3)]	Central Government may make Rules as to the application of the Act in relation to Revised Financial Statement or a Revised Director's Report, covering the following– 1. make different provisions according to which the previous Financial Statement or Report are replaced or are supplemented by a document indicating the corrections to be made,

3. National Financial Reporting Authority (NAFRA) [Sec.132]-Not yet to Notify

1. Constitution [Sec.132(1)]: The Central Govt may, by notification, constitute a National Financial Reporting Authority (NAFRA) to provide for matters relating to Accounting and Auditing Standards under the Companies Act 2013.

2. Members [Sec.132(3)]: NAFRA shall consist of –

(a) A Chairperson, who shall be a person of eminence and having expertise in Accountancy, Auditing, Finance or Law to be appointed by the Central Government, and

(b) Other Members not exceeding fifteen, consisting of part–time and full–time Members as may be prescribed.

3. Conditions as to Members of NAFRA [Sec.132(3) Provisos]:

(a) Terms and Conditions: Terms and Conditions and the manner of appointment of the Chairperson and Members shall be prescribed by Central Government.

(b) **Independence / Conflict of Interest:** Chairperson and Members shall make a declaration to the Central Government regarding no conflict of interest or lack of independence in respect of his or their Appointment.

(c) **No Nexus with Audit Firm:** The Chairperson and Members, who are in full–time employment with NAFRA, shall not be associated with any Audit Firm (including related Consultancy Firms) during the course of their appointment and two years after ceasing to hold such appointment.

Note: "Professional or Other Misconduct" shall have the same meaning as u/s 22 of the CA Act, 1949.

4.Central Government to prescribe Accounting Standards [Sec.133]

The Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted u/s 3 of the Chartered Accountants Act, 1949, in consultation with and after examination of the recommendations made by the NAFRA.

5. Financial Statement Approval / Authentication [Sec.134]

1. Signing of Financial Statements [Sec. 134(1)]:

<table>
<tr><td>Approval</td><td colspan="3">Before submission to the Auditor for his report, the Financial Statement, including Consolidated Financial Statement, shall be approved by the Board of Directors.</td></tr>
<tr><td rowspan="3">Signing</td><td colspan="3">The signing requirements of Financial Statement are as below –</td></tr>
<tr><td>(a) By the Chairperson of the Company, where he is authorised by the</td><td>AND</td><td>(a) The Chief Executive Officer, if he is a Director in the Company, wherever (b) The Chief Financial Officer, and they are (c) The</td></tr>
<tr><td colspan="3">Note: In case of a One Person Company, the Financial Statement shall be signed only by one Director.</td></tr>
</table>

2. Circulation of Financial Statement [Sec. 134(7)]: A signed copy of every Financial Statement, including Consolidated Financial Statement, if any, shall be issued, circulated or published along with a Copy each of–

(a) any Notes annexed to or forming part of such Financial Statement,
(b) the Auditor's Report, and
(c) the Board's Report referred u/s 134 (3).

Note: Auditors' Report shall be attached to every Financial Statement. [Sec. 134 (2)]

6. Board's Report [Sec.134]

To the statements laid before a Company in General Meeting, a Report by its Board of Directors shall be **attached**. The provisions in this regard are –

1. **Basis = SFS [Rules]:**
   (a) The Board's Report shall be prepared based on the **stand–alone** Financial Statements of the Company.
   (b) The Report shall contain a **separate section** wherein a report on the performance and financial position of each of the Subsidiaries, Associates and Joint Venture Companies included in the **Consolidated** Financial Statement is presented.

2. **Signature of Board's Report [Sec.134(6)]:** The Board's Report and any annexure thereto shall be signed by –
   i. Chairperson of the Company if he is authorised by the Board,
   ii. where Chairperson is not so authorised, by at least two Directors, one of whom shall be a Managing Director, or
   iii. by the Director where there is one Director.

3. **Contents [Sec.134 (3)]:** This Board's Report shall include the following –
   (a) The extract of the **Annual Return** as provided u/s 92 (3),
   (b) **Number of Meetings** of the Board,
   (c) Directors' **Responsibility Statement**, **[See Point 4]**
   (d) A Statement on Declaration given by **Independent Directors** u/s 149(6),
   (e) In case of a Company covered u/s 178(1), **Company's Policy on Directors' Appointment** and Remuneration, including criteria for determining qualifications, positive attributes, independence of a Director and other matters provided u/s 178(3),
   (f) Explanations or Comments by the Board on every **Qualification**,

Reservation or Adverse Remark or **Disclaimer** made–
(i) by the **Auditor** in his report, and
(ii) by the **Company Secretary** in practice in his Secretarial Audit Report,
(g) Particulars of Loans, Guarantees or Investments u/s 186,
(h) Particulars of Contracts or Arrangements with Related Parties referred to u/s 188(1) in Form AOC–2,
(i) the state of the Company's affairs,
(j) the Amounts, if any, which it proposes to carry to any Reserves,
(k) the Amount, if any, which it recommends should be paid by way of Dividend,
(l) Material Changes and Commitments, if any, affecting the Financial Position of the Company which have occurred between the end of the Financial Year of the Company to which the Financial Statements relate and the date of the Report,
(m) The Conservation of Energy, Technology Absorption, Foreign Exchange Earnings and Outgo, [See Point 5],
(n) A Statement indicating development and implementation of a Risk Management Policy for the Company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the Company,
(o) The details about the policy developed and implemented by the Company on Corporate Social Responsibility initiatives taken during the year, as per Annexure attached to Companies (CSR) Rules, 2014,
(p) In case of a Listed Company and every other Public Company having Paid–Up Share Capital of 25 Crore or more, a Statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its Committees and individual Directors,
(q) Such other matters as may be prescribed. [See Point 4]

4. **Directors' Responsibility Statement [Sec.134(5)]:** The Directors' Responsibility Statement referred u/s 134(3)(c) shall state the following –
(a) In the preparation of the Annual Accounts, the applicable **Accounting Standards** had been followed along with proper explanation relating to material departures,
(b) The Directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent

so as to give a true and fair view of the state of affairs of the Company at the end of the Financial Year and of the Profit and Loss of the Company for that period,

(c) The Directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the Company and for preventing and detecting fraud and other irregularities,

(d) The Directors had prepared the annual accounts on a going concern basis, and

(e) The Directors, in the case of a Listed Company, had laid down Internal Financial Controls to be followed by the Company and that such Internal Financial Controls are adequate and were operating effectively.

(f) The Directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

Note: "**Internal Financial Controls**" means the policies and procedures adopted by the Company for ensuring the orderly and efficient conduct of its business, including adherence to Company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information.

5. **Information u/s 134(3):** The Board's Report shall contain the following information and details –

(a) **Conservation of Energy**	• **Steps taken or impact** on Conservation of Energy, • Steps taken for **utilizing alternate sources** of Energy, • Capital Investment on Energy Conservation **Equipments**.
(b) **Technology Absorption**	▪ Efforts made towards Technology Absorption, ▪ Benefits derived like Product Improvement, Cost Reduction, Product Development or Import Substitution, ▪ In case of Imported Technology (imported during the last 3 years reckoned from the beginning of the financial year) – (i) Details of Technology imported, ii) Year of Import, (iii) Whether the Technology has been fully absorbed,
(c) **Foreign Exchange Earnings and**	• Foreign Exchange earned in terms of actual inflows during the year,

6. **Information u/s 134(3):** The Board's Report shall **also contain** the following

(a) **Financial Summary** or Highlights,

(b) Change in the **nature of Business**, if any,
(c) Details of **Directors or Key Managerial Personnel** who were appointed or have resigned during the year,
(d) Names of Companies which have become or **ceased to** be its Subsidiaries, Joint Ventures, or Associate Companies during the year,
(e) Details relating to **Deposits**, covered under Chapter V of the Act –
   i. accepted during the year,
   ii. remained unpaid or unclaimed as at the end of the year,
   iii. whether there has been any default in repayment of Deposits or payment of Interest thereon during the year and if so, number of such cases and the total amount involved –
      - at the beginning of the year,
      - maximum during the year,
      - at the end of the year,
(f) Details of Deposits which are not in compliance with the requirements of Chapter V of the Act,
(g) Details of significant and material orders passed by the Regulators or Courts or Tribunals impacting the Going Concern Status and Company's operations in future,
(h) Details in respect of adequacy of Internal Financial Controls with reference to the Financial Statements.

7. **Other Points:**

Punishment for Contravention of Sec.134 [Sec.134(8)]	1. **For Company:** Fine of Minimum ` 50,000, Maximum ` 25,00,000. 2. **For every Officer in Default:** (a) Imprisonment of maximum 3 years, or (b) Fine of Minimum ` 50,000, Maximum ` 5,00,000, or (c) Both.
For One Person Company [Sec.134(4)]	In case of a One Person Company, the Board's Report u/s 134 shall mean a Report containing explanations or comments by the Board on every Qualification, Reservation or Adverse Remark or Disclaimer made by the Auditor in his Report. **[Note:** No other detailed contents required.]

7. Internal Audit [Sec.138]

The provisions relating to Internal Audit are as under –

Particulars	
Companies required to appoint Internal Auditor	1. Every **Listed Company** 2. Every **Unlisted Public Company**, during the preceding Financial year having – (i) Paid Up Share Capital of 50 Crores or more, or (ii) Turnover of 200 Crores or more, or (iii) Outstanding Loans or Borrowings from Banks or Public Financial Institutions **exceeding** 100 Crores or more **at any point** of time during the preceding financial year, or (iv) Outstanding Deposits of 25 Crores or more at any point of time during the preceding financial year. 3. Every Private Company having – (a) **Turnover** of 200 Crores or more during the preceding financial year, or (b) **Outstanding Loans or Borrowings** from Banks or Public Financial Institutions exceeding 100 Crores or more at any point of time during the preceding financial year.
Existing Companies	Existing Company covered under any of the above criteria shall appoint Internal Auditor within the month of **Sep 2014** (i.e. 6 months from the commencement of this section).
Conditions as to appointment	1. Internal Auditor may be an **Individual or a Firm**. 2. Internal Auditor, shall either be a **Chartered Accountant or a Cost Accountant, or such other Professional** as may be decided by the Board to conduct internal audit of the functions and activities of the Company. 3. The term Chartered Accountant shall mean a CA, **whether engaged in practice or not**. 4. The Internal Auditor may or may not be an Employee of the Company.
Other Points	1. The Audit Committee or the Board shall, in consultation with the Internal Auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit.

Chapter-8

Audit and Auditors

(Chapter X comprises Sec.139 to Sec.148. The relevant Rules are called Companies (Audit and Auditors) Rules, 2014.)

	The Companies Act, 2013
139	Appointment of auditors
140	Removal, resignation of auditor and giving of special notice
141	Eligibility, qualifications and disqualifications of auditors
142	Remuneration of auditors
143	Powers and duties of auditors and auditing standards
144	Auditor not to render certain services
145	Auditor to sign audit reports, etc
146	Auditors to attend general meeting
147	Punishment for contravention
148	Central Government to specify audit of items of cost in respect of certain companies
139	Appointment of auditors
140	Removal, resignation of auditor and giving of special notice
141	Eligibility, qualifications and disqualifications of auditors

(1) Qualifications	**(2) Appointment**	**(3) Removal, Rights, Misc, etc.**
1. Qualifications of Auditors 2. Disqualifications of Auditors 3. Auditor not to render Certain Services 4. Remuneration of Auditors 5. Audit of Branches	(1) Appointment of First Auditors (2) Appointment of Auditors of Govt (3) Companies (4) Appointment of Auditors at AGM (5) Manner & Procedure for Selection & Appointment of Auditors (6) Casual Vacancy (7) Re–appointment of Retiring Auditor (8) Rotation of Auditors (9) Illustration on Rotation of Auditors	(1) Removal of Auditors before expiry of term (2) Removal of Auditors at AGM (3) Change of Auditors based on Tribunal's Direction (4) Resignation of Auditors (5) Rights of Auditors (6) Duties of Auditors (7) Punishment for Contravention (8) Cost Audit

1. Qualifications

1.1 Qualifications of Auditors [Sec.141(1), (2)]

(1) A person shall be eligible for appointment as an Auditor of a Company only if he is a **Chartered Accountant**.
(2) **A Firm** whereof **majority of the Partners practicing in India** are qualified for appointment, as aforesaid, may be appointed by its Firm Name to be the Auditors of a Company.
(3) Where a Firm (including a LLP) is appointed as Auditor of the Company, only the Partners who are Chartered Accountants are authorised to act and sign on behalf of the Firm.

1.2 Disqualifications of Auditors [Sec.141(3), (4) and Rules]

1. **Disqualifications [Sec.141(3)]:** The following persons are not eligible for appointment as an Auditor of a Company –

   a) a **Body Corporate** other than a Limited Liability Partnership,
   b) an **Officer** or **Employee** of the Company,
   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 –

   (i) **Is holding any security** or **interest** in the Company or its Subsidiary, Holding or Associate Company or a Subsidiary of such Holding Company. (Note: A Relative may hold security or interest in the Company of **Face Value not exceeding ` 1,00,000.**)

   (ii) is **indebted** to the Company or its Subsidiary, Holding or Associate Company or a Subsidiary of such Holding Company, **in excess of 5,00,000** or

   (iii) has given **any guarantee or provided any security** in connection with the indebtedness of any third person to the Company, or its Subsidiary, Holding or Associate Company or a Subsidiary of such Holding Company **in excess of 1,00,000**.

   e) A Person or a Firm who, whether directly or indirectly, has **business relationship** with the Company, or its
   f) **Subsidiary, Holding or Associate Company or Subsidiary** of such Holding Company or Associate Company,
   g) A Person whose **Relative is a Director** or is in the employment of the Company as a Director or Key Managerial Personnel,
   h) A Person who is in **full time employment** elsewhere or a person or a Partner of a Firm holding audits of more than 20 Companies on the date of appointment or re–appointment as Auditor,

i) A Person who has been **convicted** by a Court, of an offence involving fraud, and a period of 10 years has not elapsed from the date of such conviction,

j) any Person whose Subsidiary or Associate Company or any other form of Entity, is engaged as on the date of appointment, in consulting and specialised services as provided in Sec.144.

Note: For the purposes of Point (e) above, Business Relationship shall be construed as any transaction entered into for a commercial purpose, except –

(a) Commercial Transactions which are in the nature of Professional Services permitted to be rendered by an Auditor or Audit Firm under the Companies Act or CA Act and Rules / Regulations there under

(b) Commercial Transactions 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 and such other similar businesses.

2. **Subsequent Disqualification = Casual Vacancy:** If an Auditor, after his appointment, becomes subject to any of the above disqualifications, he shall be deemed to have automatically vacated his office and that vacancy shall be considered to be a Casual Vacancy. **[Sec.141(4)]**

Q-Mr. A", a practicing Chartered Accountant, is holding securities of "XYZ Ltd." having face value of Rs.900/-. Whether Mr. A is qualified for appointment as an Auditor of "XYZ Ltd."?

Ans-In the present case, Mr. A. is holding security of Rs 900 in the XYZ Ltd, therefore he is not eligible for appointment as an Auditor of "XYZ Ltd".

Ex1:"Ram and Hanuman Associates, Chartered Accountants in practice have been appointed as Statutory Auditor of Krishna Ltd. for the accounting year 2013-2014.Mr. Hanuman, a partner of the Ram and Hanuman Associates, holds 100 equity shares of Shiva Ltd., a subsidiary company of Krishna Ltd.RTP-N14

Ans-In the present case, Mr. Hanuman, Chartered Accountant, a partner of M/s Ram and Hanuman Associates, holds 100 equity shares of Shiva Ltd. which is a subsidiary of Krishna Ltd. Therefore, the firm, M/s Ram and Hanuman Associates would be disqualified to be appointed as statutory auditor of Krishna Ltd. as per section 141 (3)(d)(i), which is the holding company of Shiva Ltd., because Mr. Hanuman one of the partner is holding equity shares of its subsidiary.

•*Ex 2:"Mr. P" is a practicing Chartered Accountant and "Mr. Q", the relative of "Mr. P" is holding securities of "ABC Ltd." having face value of Rs 90,000/-. Whether "Mr. P" is Qualified from being appointed as an Auditor of "ABC Ltd."?*

***Ans-**In the present case, Mr. Q. (relative of Mr. P, an auditor), is having securities of f 90,000 face Value in the ABC Pvt. Ltd., which is as per requirement of proviso to section 141 (3)(d)(i), Therefore, Mr. P will not be disqualified to be appointed as an auditor of ABC Ltd.*

- ***Ex 3:** "BC & Co." is an Audit Firm having partners "Mr. B" and "Mr. C", and "Mr. A" the relative of "Mr. C", is holding securities of "MWF Ltd." having face value of Rs 1,01,000/-. Whether "BC & Co." is qualified from being appointed as an Auditor of "MWF Ltd."?*

***ANS-**In the instant case BC & Co, will be disqualified for appointment as an auditor of MWF Ltd as the relative of Mr. C i.e. partner of BC & Co., is holding the securities in MWF Ltd which is exceeding the limit mentioned in proviso to section 141(3)(d)(i).*

1.3 Auditor not to render Certain Services [Sec.144]

1. **Only Approved Services:** An Auditor of the Company can provide only those Other Services as **approved by the Board of Directors or the Audit Committee**.
2. **Prohibited Services:** The following services shall **not** be provided by an Auditor directly or indirectly to the Company or its Holding Company or Subsidiary Company –
   (a) Accounting and Book Keeping Services,
   (b) Internal Audit,
   (c) Design and Implementation of any Financial Information System,
   (d) Actuarial Services,
   (e) Investment Advisory Services,
   (f) Investment Banking Services,
   (g) Rendering of Outsourced Financial Services,
   (h) Management Services,
   (i) Any other kind of Services as may be prescribed.
3. **1 Year Timeframe:** An Existing Auditor which renders any of the non–audit services, shall comply with Sec.144 before the closure of the first financial year after the date of commencement of this Act.

Q- Contravene Ltd. appointed CA Innocent as an auditor for the company for the current financial year. Further the company offered him the services of actuarial, investment advisory and investment banking which was also approved by the Board of Directors.

ANS-Services not to be Rendered by the Auditor: Section 144 of the Companies Act, 2013 prescribes certain services not to be rendered by the auditor.

Q-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),

In the given case, CA Innocent was appointed as an auditor of Contravene Ltd. He was offered additional services of actuarial, investment advisory and investment banking which was also approved by the Board of Directors. The auditor is advised not to accept the services as these services are specifically notified in the services not to be rendered by him as an auditor as per section 144 of the Act.

4. **Meanings:** The term "**directly or indirectly**" includes rendering of services by the Auditor –

In case of Auditor being an Individual	In case of Auditor being an Audit Firm
(a) either himself, or (b) through his Relative, or (c) any other person connected or associated with such Individual, or (d) through any other Entity, in which such Individual has significant influence or control, or whose Name or Trademark or Brand is used by such Individual,	(a) either itself, or (b) through any of its Partners, or (c) through its Parent, Subsidiary or Associate Entity, or (d) through any other Entity, in which the Firm or any Partner of the Firm has significant influence or control, or whose Name or Trademark or Brand is used by the Firm or any of its Partners.

1.4 Remuneration of Auditors [Sec.142]

1. The Remuneration of the Auditor shall be fixed by the Members – (a) in its General Meeting, or (b) in such manner as may be determined at the Meeting.
2. Remuneration of the First Auditor may be fixed by the Board of Directors.
3. Remuneration **includes** –
   (a) Fees Payable to the Auditor,
   (b) Expenses if any, incurred by the Auditor in connection with the audit and any facility extended to the Auditor.
4. However, Remuneration **does not include** amount paid for any other service rendered by the Auditor at the request of the Company.

1.5 Audit of Branches [Sec.143(8), Rules]

1. **Qualifications:** The following persons are eligible for appointment as Branch Auditors –

In case of Local Branches	In case of Foreign Branches
(a) The Company's Auditor appointed u/s 139, or (b) A person qualified for appointment as an Auditor u/s 139.	(a) The Company's Auditor appointed u/s 139, or (b) An Accountant or other person duly qualified to act as an.Auditor in accordance with the laws of that foreign country.

2. **Audit Report of Branch:**
   (a) The Branch Auditor shall prepare a Report on the accounts of the Branch Office examined by him.
   (b) The Branch Auditor shall submit his report to the Company's Auditor, who shall deal with it in the manner required to finalise his Audit Report.

3. **Duties and Powers of Company and Branch Auditor:** The duties and powers of the Company's Auditor with reference to the audit of the Branch, and the Branch Auditor, if any, shall be as contained in Sec.143(1) to 143(4).

4. **Frauds at Branch:** Sec.143(12) along with Rules, relating to reporting of fraud by the Company Auditor, shall also extend to Branch Auditor, to the extent it relates to the concerned Branch.

2. Appointment

2.1 Appointment of First Auditors [Sec.139(6), 139 (7)]

Provision	Sec.139(7)	Sec.139(6)
Type of Company covered	1. Government Companies, or 2. Any other Company owned or controlled, directly or indirectly, by – (a) By the Central Government, or (b) By any State Government or Governments, or (c) Partly by the Central Government and partly by one of more State Governments.	Any other Company
Appointment of First Auditor	• Appointment by: C&AG of India. • Time Limit: Within 60 days from the date of registration of the Company.	• Appointment by: Board of Directors. • Time Limit: Within 30 days from the date of registration of the Company.

In case of failure of above	The **Board of Directors** shall appoint the First Auditor, within the **next 30 days**.	**See next point below.**
In case of BOD failure	• BOD shall inform the Members of its failure. • Members shall appoint the Auditor, **within 60 days,** in an EGM.	• BOD shall inform the Members of its failure. • Members shall appoint the Auditor, **within 90 days,** in an EGM.
Tenure	First Auditor shall hold office till the conclusion of the	First Auditor shall hold office till the conclusion of the **First**
Overriding of	The above provisions override Sec.139(1) & 139(5).	The above provisions override Sec.139(1).

2.2 Appointment of Auditors of Govt Companies [Sec.139(5)]

Point	Descri
Type of Companies	1. Government Companies, or 2. Any other Company owned or controlled, directly or indirectly, by – (a) By the Central Government, or (b) By any State Government or Governments, or (c) Partly by the Central Government and partly by one of more State Governments.
Appointment of Auditors	1. Appointee: Auditor duly qualified to be appointed as Auditor under the Act. 2. Appointment by: Comptroller and Auditor General (C&AG) of India. 3. Time Limit: Within 180 days from the commencement of the financial year. 4. Tenure: To hold office till the conclusion of the AGM.

Q- Nick Ltd. is a subsidiary of Ajanta Ltd., whose 20% shares have been held by Central Government, 25% by Uttar Pradesh Government and 10% by Madhya Pradesh Government. Nick Ltd. appointed Mr. Prem as statutory auditor for the year.

ANS-In the given case Ajanta Ltd is a government company as its 20% shares have been held by Central Government, 25% by U.P. State Government and 10% by M.P. State Government. Total 55% shares have been held by Central and State governments. Therefore, it is a Government company.

Nick Ltd. is a subsidiary company of Ajanta Ltd. Hence Nick Ltd. is covered in the definition of a government company. Therefore, the Auditor of Nick Ltd. can be appointed only by C & AG.

Consequently, appointment of Mr. Prem is invalid and he should not give acceptance to the Directors of Nick Ltd.

2.3 Appointment of Auditors at AGM [Sec.139(1)]

Point	Descri
Appointment at AGM	Every Company shall appoint an Individual or a Firm as Auditor of the Company, at its 1st AGM. **Note:** • **Appointment** includes re–appointment. • **Firm** includes a Limited Liability Partnership (LLP) incorporated under the LLP Act, 2008.
Tenure	1. Auditor shall hold the office from the conclusion of 1st AGM to till the conclusion of its 6th AGM and thereafter till the conclusion of every 6th AGM. 2. For the above purpose, the Meeting wherein such appointment has been made will be counted as the first Meeting.
Ratification at every AGM	1. The Company shall place the matter relating to appointment of Auditors, for ratification by Members, at every AGM, by way of passing an Ordinary Resolution. 2. If the appointment is not ratified by the Members of the Company at the AGM, the Board of Directors shall appoint another Individual / Firm as the Auditor(s), after following the procedure laid down in this behalf under the Act.
Duties of Company	3. The Company should obtain the written consent of the Auditor, and the prescribed Certificate from the Auditor, before appointing the Auditor. [Note: See next point for Certificate.] 4. The Company should inform the Auditor about his appointment and file a notice with the Registrar, within 15 days of the Meeting in which Auditor was appointed, in Form ADT–1. 5. ADT–1 Contents include details as to Auditors' – (a) Income Tax PAN, (b) Name, (c) Membership Number / Firm Registration Number, (d) Address, with City, State and PIN Code, (e) email id.

Contents of Certificate by Auditor	1. The Auditor (Individual / Firm), is eligible for appointment, and is not disqualified for appointment under the Companies Act, the Chartered Accountants Act, 1949 and its related Rules or Regulations, 2. The proposed appointment is as per the term provided under the Act, 3. The proposed appointment is within the limits laid down by or under the authority of the Act, 4. 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.
Effect of no appointment at AGM	If at any AGM, the Auditor is not appointed or re–appointed, the Existing Auditor shall continue to be the Auditor of the Company. [Sec.139(10)]

2.4 Manner & Procedure for Selection & Appointment of Auditors [S.139(1) & Rules]

Situation "A"	Where Audit Committee is required to be constituted u/s 177 (i.e. for Listed Companies and other prescribed class(es) of Companies)
Initial Selection of Auditors by Committee	The Audit Committee shall recommend to the BOD, the name of an Individual / Firm as Auditor, after considering the following – 1. Qualifications and Experience of the Individual / Firm. 2. Whether such Qualifications and Experience are commensurate with the size and requirements of the Company. 3. Order or Pending Proceedings against the Individual / Firm relating to professional matter of conduct, before the ICAI or Competent Authority or Court. 4. Any other information which the Committee has called for from the Proposed Auditor.
Situation "A"	Where Audit Committee is required to be constituted u/s 177 (i.e. for Listed Companies and other prescribed class(es) of Companies)
If Audit Committee and BOD agree	If the BOD agrees with the recommendation of Audit Committee, the BOD shall – 1. further recommend the appointment to the Members, 2. place the matter for consideration by Members in the AGM.

If Audit Committee and BOD disagree	1. If the BOD disagrees with Audit Committee's recommendation, it should refer back to the Audit Committee for its reconsideration, citing the reasons for its disagreement. 2. If the Audit Committee does not reconsider its recommendation, after taking the reasons given by the BOD, then, the BOD shall – (a) record the reasons for its disagreement with the Committee. (b) send its own recommendation for consideration of the Members in the AGM.

Note: If a Company is required to constitute Audit Committee u/s 177, all appointments, including the filling of a casual vacancy of an Auditor should be made after considering that Committee's recommendations. [Sec.139(11)]

Situation "B": When there is no requirement as to Audit Committee
The Board of Directors (BOD) shall recommend to the Members in the AGM, the name of an Individual / Firm as Auditor, after considering the factors mentioned in the Table above in Situation A.

2.5 Casual Vacancy [Sec.139(8)]

Type of Company	Companies whose accounts are subject to audit by an Auditor appointed by the C&AG	**For all other Companies**
Filling of Casual Vacancy	• C&AG shall fill the Casual Vacancy, within 30 days. • If C&AG does not fill the vacancy within 30 days, the BOD	• Board of Directors shall fill the casual vacancy, within 30 days. See Notes below.
Tenure	• Till the conclusion of the next AGM. [as per Sec.139(5)]	• Till the conclusion of the next AGM. **[Sec.139(8)]**

Note:
- If vacancy is caused by resignation, the appointment should also be approved by the Company at a General Meeting convened within 3 months of BOD recommendation.
- For Companies in which an Audit Committee u/s 177 is required, the recommendations of that Committee shall also be considered for Casual Vacancy.

2.6 Re–appointment of Retiring Auditor [Sec.139(9)]

Subject to Sec.139(1), the Retiring Auditor may be re–appointed at an AGM, if –

1. If the Retiring Auditor is **not disqualified** for re–appointment,
2. If the Retiring Auditor has **not given** the Company a notice in writing of his unwillingness to be re–appointed,
3. If a Special Resolution has **not** been passed at that AGM, appointing another Auditor instead of the Retiring Auditor or providing expressly that the Retiring Auditor shall not be re–appointed.

2.7 Rotation of Auditors [Sec.139(2), (3), (4), Rules]

Rotation Principles Applicable to	(1) Listed Companies (2) All Unlisted Public Companies having Paid Up Share Capital of ` 10 Crore or more, (3) All Private Limited Companies having Paid Up Share Capital of ` 20 Crore or more, (4) All Companies having Paid Up Share Capital below the above specified limits, but having Public Borrowings from Financial Institutions, Banks or Public Deposits 50 Crores or more.**Note:** Excluded Companies – (a) One Person Company, and (b) Small Company.
Maximum Tenure of Auditors	The above Companies shall not appoint / re–appoint – 1. An Individual as Auditor, for more than 1 term of 5 consecutive years, and 2. An Audit Firm as Auditor, for more than 2 terms of 5 consecutive years.

Auditors Ineligible for appointment – Different Scenarios	1. **Cooling Off Period:** Any Individual or Audit Firm shall **not** be eligible for re–appointment as Auditor in the same Company, for **5 years** from the completion of their audit term. 2. **Common Partners:** Any Audit Firm having **common partner(s)** on the date of appointment, in the retiring Audit Firm whose tenure has expired immediately preceding the financial year, shall **not** be appointed as Auditor, for a period of **5 years**. 3. **Old Certifying Partner in New Firm:** 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, then such Other Firm is also **ineligible** to be appointed for a period of 5 years. 4. **Same Network Firms:** The Incoming Auditor or Audit Firm is not eligible to be appointed, if it is associated with the Outgoing Auditor or Audit Firm under the **same network** of Audit Firms. [**Note:** "Same Network" includes the Firms functioning, **hitherto or in future**, under the same brand name, trade name or common control.]
3 Year Time Period for Compliance	Every Existing Company which is required to comply with Sec.139(2), shall comply with the requirement, **within 3 years** from the date of commencement of this Act.

Additional Conditions [Sec.139(3)]	Subject to the provisions of the Act, the Members of a Company may resolve to provide that – 1. In the Audit Firm appointed by it, the Auditing Partner and his Team shall be rotated at such intervals, as may be resolved by the Members, or 2. The Audit shall be conducted by more than one Auditor.
Other Points	1. When there is a Rotation of Auditors on expiry of 5–year term, the Audit Committee or BOD shall follow the Manner and Procedure for Selection and Appointment of Auditors, as specified u/s 139(1) and Rules above, e.g. consideration of qualifications, etc. 2. A **break** in the term for a continuous period of 5 years is considered as fulfilling the requirement of rotation. 3. Sec.139(2) shall not affect – (a) the right of the Company to remove an Auditor, or (b) the right of the Auditor to resign his office. **Note:** This means that the appointment for 5 year period is not irrevocable, and the Auditor may resign, or Company may remove the Auditor before that period.

2.8 Illustration on Rotation of Auditors [Rules]

Illustration 1: Illustration explaining Rotation in case of Individual Auditor

Number of consecutive years for which an Individual Auditor has been functioning as Auditor in the same Company [in the first AGM held after the commencement of provisions of	Maximum number of consecutive years for which he may be appointed in the same Company (including	Aggregate period which the auditor would complete in the same Company in view of Column I and II
I	**II**	**III**
5 years (or more than 5 years)	3 years	8 years or more
4 years	3 years	7 years
3 years	3 years	6 years
2 years	3 years	5 years
1 years	4 years	5 years

Notes:

1. Individual Auditor shall include other Individuals or Firms whose Name or Trademark or Brand is used by such individuals, if any.
2. Consecutive years shall mean all the preceding financial years for which the Individual Auditor has been the Auditor, until there has been a break by five years or more.

Illustration 2: Illustration explaining rotation in case of Audit Firm

Number of consecutive years for which an audit Firm has been functioning as Auditor in the same Company [in the first AGM held after the commencement of provisions of Sec.139(2)]	Maximum number of consecutive years for which the Firm may be appointed in the same Company (including	Aggregate period which the Firm would complete in the same Company in view of Column I and II
I	**II**	**III**
10 years (or more than 10 years)	3 years	13 years or more
9 years	3 years	12 years
8 years	3 years	11 years
7 years	3 years	10 years
6 years	4 years	10 years
5 years	5 years	10 years
4 years	6 years	10 years
3 years	7 years	10 years
2 years	8 years	10 years
1 years	9 years	10 years

Notes:

1. Audit Firm shall include other Firms whose Name or Trademark or Brand is used by the Firm or any of its Partners.
2. Consecutive years shall mean all the preceding financial years for which the Firm has been the Auditor until there has been a break by five years or more.

Procedure for Removal before expiry of term	1. BOD should pass a Resolution for removal of Auditors. 2. Application should be made to Central Government in Form ADT–2, within 30 days of BOD Resolution. 3. Previous Approval of Central Government should be obtained, in response to Form ADT–2. 4. A General Meeting should be held within 60 days of receipt of approval from Central Government. 5. Special Resolution should be passed in the above General Meeting, for removal of Auditors. 6. Before taking any action u/s 140(1), the Auditor shall be given a reasonable opportunity of being heard.

Note: Contents of Form ADT–2 include the following –

1. Grounds of seeking removal of Auditor,
2. Details of Qualifications in Accounts in past 3 years,
3. Details of Opportunity of being heard given to the Auditor,
4. Details of Civil / Criminal Proceedings pending between Company / Concerned Officers,
5. Special Notice received for Removal of Auditors, if any.
6. Percentage of Capital held by Members who propose removal of Auditors,
7. Whether all due Audit Fees has been paid to the concerned Auditors,
8. Details of Other Services rendered by such Auditors to the Company,
9. Number of years for which audit is pending,
10. Stage of accounts for each financial year, e.g. yet to be approved by Board, or yet to be handed over to Auditors, etc.
11. Dispute with regard to Books of Accounts in the possession of Auditors but not delivered back to the Company,

3.2 Removal of Auditors at AGM [Sec.140(4) and Rules]

This is done by appointing an Auditor other than the Retiring Auditor with the following points –

2. **Special Notice:** Special Notice is required for a resolution at an AGM for – (a) appointing as Auditor, a person other than the Retiring Auditor, or

(b) providing expressly that the Retiring Auditor shall not be re–appointed.

Note: If the Retiring Auditor has completed a consecutive tenure of 5 years (for Individual) or 10 years (for Firm), such Special Notice is not required.

3. **Copy to Auditor:** On receipt of above notice, the Company shall send **forthwith** a copy thereof to the Retiring Auditor.

4. **Rights of Retiring Auditor:** The Retiring Auditor has the following rights – (a) To make a representation of a reasonable length to the Company,
   (b) To request that such representation be circulated among the members,
   (c) To require that the representations be read out at the AGM, and he be heard orally at the AGM.

5. **Company's Duties:** Where the Retiring Auditor makes a representation in writing to the Members of the Company, the Company shall –
   (a) state the fact of representations being made, in any notice of the resolution given to Members of the Company, and
   (b) send a copy of representation to every Member of the Company to whom notice of meeting is sent, whether before or after the receipt of representation by the Company.

   Note: The Auditors' Representations **need not be circulated to Members** by the Company, if – (a) The representations are received too late by the Company, or
   (b) The Tribunal is satisfied, on the application made by the Company or any other aggrieved person, that the right of representation is being abused by the Auditor.

   If the representation is not sent to the Members, a copy thereof should be filed with the ROC.

3.3 Change of Auditors based on Tribunal's Direction [Sec.140(5)]

Situation	Tribunal is satisfied that the Auditor of a Company has, directly or indirectly, – 1. acted in a **fraudulent manner,** or 2. **abetted or colluded** in any **fraud** by, or in relation to, the Company or its Directors or Officers.
Basis for Tribunal's findings	1. suo–motu by Tribunal, or 2. Application made to Tribunal by Central Government, or 3. Application made to Tribunal by any person concerned.

Order of Tribunal	1. The Tribunal can order the Company to change its Auditors, on the abovecited grounds. 2. In case of Application by Central Government, the Tribunal shall make an order **within 15 days** of receipt of application, that the person shall not function as an Auditor. The Central Government may appoint another Auditor in his place.
Effect of Tribunal's Final Order	1. The Individual / Firm against whom a Final Order u/s 140 is passed by Tribunal, is not eligible to be appointed as Auditor of **any Company** for a period of 5 years from the date of the order. 2. If the order is against any Firm, the liability shall be of the Firm **and** of every Partner(s) who have acted in a fraudulent manner, or abetted or colluded in the fraud. 3. The erring Auditors are also liable for action u/s 447. 4. In case of **criminal liability** of any Audit Firm, the **liability other than fine** shall devolve only on the concerned Partner(s) who acted in a fraudulent manner, or abetted or colluded in the fraud.

3.4 Resignation of Auditors [Sec.140(2), (3) and Rules]

Procedure	1. An Auditor has the right to resign from the Company, before the expiry of his term. 2. The Resigning Auditor should file **Form ADT–3**, **within 30 days** of date of resignation.
Form ADT–3 Time Limit	**Form ADT–3** shall be filed with – 1. the Company, 2. the ROC, and also 3. the C&AG in case of Sec.139(5) Companies.
Form ADT–3 Contents	Form ADT–3 requires details to be furnished in respect of – (a) reasons for resignation, and (b) any other facts as may be relevant with regard to the resignation.
Non–Complianc e	If the Auditor fails to furnish Form ADT–3 as above, he is punishable with Fine of Minimum ` 50,000 toMaximum ` 5,00,000.

3.5 Rights of Auditors

1. **Right of Access to Books and Vouchers [Sec.143(1)]:**

(a) The Company Auditor shall have a right of access **at all times** to the books of accounts and vouchers of the Company, whether kept at the Registered Office of the Company or elsewhere.

(b) The Auditor of a Holding Company shall also have the right of access to the records of all its Subsidiaries in so far as it relates to the **consolidation** of its Financial Statements.

2. **Right to obtain information and Explanations[Sec.143(1)]:**
The Company Auditor is entitled to require from the Officers of the Company, such information and explanations as the Auditor may think necessary for the performance of his duties.

3. **Right to visit Branches, and access Branch Accounts [Sec.143(8)]:** **See Para 1.5**

4. **Right to Remuneration [Sec. 142]:** **See Para 1.4**

5. **Right to have Qualifications, etc. read out at General Meeting [Sec.145]:** Qualifications, Observations or Comments on the Financial Transactions or matters, which have any adverse effect on the functioning of the Company mentioned in the Auditor's Report, shall be –
   (a) **read** before the Company in its General Meeting.
   (b) **open for inspection** by any Member of the Company.

6. **Right to receive Notices and to attend General Meetings [Sec.146]**
   (a) All Notices of and other communications relating to, any General Meeting of a Company should be forwarded to the Auditors of a Company.
   (b) The Auditor shall be entitled to attend any General Meeting and to be heard at any General Meeting, which concerns him as Auditor.
   (c) Unless otherwise exempted by the Company, the Auditor shall attend the General Meeting –
   - either by himself, or
   - through his Authorised Representative, who shall also be qualified to be an Auditor.

   Note: Thus, it is also the **duty** of the Auditor to attend the General Meeting.

3.6 Duties of Auditors

1. **Inquiry into specified areas [Sec.143(1)]:** The Company Auditor shall inquire into the following aspects –
   (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 transactions of the Company, which are represented merely by Book Entries, are prejudicial to the interests of the Company,
   (c) Where the Company is not an Investment Company or Banking Company, whether Assets of the Company consisting of Shares, Debentures, and other Securities have been sold at a price less than that at which they were purchased by the Company.

(d) Whether Loans and Advances made by the Company have been shown as Deposits,

(e) Whether Personal Expenses have been charged to Revenue Account,

(f) Where any Shares have been allotted for cash, whether cash has actually been received, and if no cash has been received, whether the position as stated in the account books and the Balance Sheet is correct, regular and not misleading.

2. Reporting as to True and Fair [Sec.143(2)]:

Items reported on	**(a) on the accounts examined by him, and** **(b) on every Financial Statements which are required by or under this Act to be laid before the Company in General Meeting.**
Reporting Considerations	The Report shall be made after taking into account, the following – (a) the provisions of the Act, (b) the accounting and auditing Standards, (c) matters which are required to be included in the Audit Report under the provisions of the Act / Rules / Order u/s 143(11) (d) best of his information and knowledge.
Essence of Report	In addition to other reporting matters, the Audit Report shall state whether the said Accounts, Financial Statements, give a **true and fair view** of – (a) the state of the Company's affairs as at the end of the financial year, (b) Profit or Loss, (c) Cash Flow for the year.

3. Reporting Requirements [Sec.143(3)]: The Auditor's Report shall also state –

(a) Whether he has sought and obtained all **information and explanations** to the best of his knowledge and belief that are necessary for the purpose of his audit. If the required information is not obtained, details and effect in Financial Statements should be mentioned.

(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 and proper returns adequate for the purposes of his audit have been received from Branches not visited by him,

(c) Whether the report on the **accounts of any Branch Office** audited by a person other than the Company Auditor has been forwarded to him and how he has dealt with the same in preparing the Auditor's Report,

(d) 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,

(e) Whether, in his opinion, the Financial Statements **comply with the Accounting Standards**, the observations or comments of the Auditors on financial transactions or matters which have any **adverse effect** on the **functioning** of the company,

(f) Whether any Director is disqualified from being appointed as a Director u/s 164(2),

(g) any **Qualification, Reservation or Adverse Remark** relating to the maintenance of accounts and other matters connected therewith,

(h) Whether the Company has adequate **Internal Financial Controls** system in place and the operating effectiveness of such controls,

(i) Other matters as may be prescribed –

(i) whether the Company has disclosed the impact, if any, of **pending litigations** on its financial position in its Financial Statement,

(ii) whether the Company has made provision, as required under any law or Accounting Standards, for **material foreseeable losses**, if any, on long–term contracts including Derivative Contracts,

(iii) whether there has been any **delay** in transferring amounts, required to be transferred, to the **Investor Education and Protection Fund** by the Company.

4. **Reasons for Negative / Qualification [Sec.143(4)]:**

(a) In case of Negative Remark or Qualification in any of the reporting matters u/s 143, the Audit Report shall state the **reasons** therefor.

(b) Qualifications, Observations or Comments on the 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 its General Meeting.
- **open for inspection** by any Member of the Company. **[Sec.145]**

5. Duties w.r.t. audit of Government Companies [Sec.143(5), (6), (7)]:

Directions by C&AG	The C & AG of India can issue directions to the Statutory Auditors on the manner in which the accounts are required to be audited, in case of Auditors appointed by C&AG u/s 139(5) or 139(7).
Audit Report	The Auditor shall submit a copy of the Audit Report to C&AG. In addition to the matters u/s 143, the report shall include the following additional points – (a) **Directions** issued by C&AG, (b) **Actions** taken thereon, and (c) Its **impact** on the Accounts and Financial Statement of the Company.
Supplementary Audit	Within 60 days from the receipt of above Audit Report, the C&AG have right to – (a) Conduct a **Supplementary Audit** of the accounts with the help of authorized persons. C&AG shall also direct persons to provide additional information and other details for conducting supplementary audit. (b) **Comment** upon or **supplement** the Audit Report.
Comments of C&AG	(a) The comments or supplement given by C&AG on the Audit Report shall be sent to the Company. (b) The Company shall forward the same to every person entitled to copies of Financial Statements u/s 136(1). (c) The comments / supplement shall also be placed in the AGM similar to that of the Audit Report.
Test Audit	(a) The C&AG, if it deems fit, may order for conduct of Test Audit in case of a Company covered u/s 139(5) or 139(7). (b) The provisions of Sec.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.

6. **Compliance with Auditing Standards [Sec.143(9), (10)]:**
   (a) Every Auditor shall comply with the Auditing Standards.
   (b) The Central Government may prescribe the Standards of Auditing, as recommended by the ICAI, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.
   (c) Till such Auditing Standards are notified, Standards of Auditing specified by the ICAI shall be deemed to be the Auditing Standards.

7. **Additional Matters reporting per NAFRA [Sec.143(11)]:** In consultation with the National Financial Reporting Authority (NAFRA), the Central Government may order for the inclusion of a Statement on specified matters in the Auditor's Report for specified class or description of Companies.

8. Reporting of Frauds [Sec.143(12), (13), (15)]:

Situation	If the Company Auditor, in the course of performance of his duties, has **reason to believe** that an offence involving fraud is being or has been committed against the Company, by Officers or Employees of the Company.
Auditors' Duties – to report to Central Govt within 60 days	(a) Immediate Report to BOD / Audit Committee: Immediately after he comes to knowledge of the fraud, the Auditor shall forward his Report to the Board or the Audit Committee seeking their reply or observations within 45 days. (b) Report to Central Government: Within 15 days of receipt of reply / observations as above, the Auditor shall forward to the Central Government – • his Report (on Fraud), • Reply or Observations of BOD / Audit Committee thereon, and • his Comments on above reply or observations. Note: If no reply is received from BOD / Audit Committee in 45 days, the Auditor shall forward his report only to the Central Government, mentioning the fact of non–receipt of reply/observations.
Report Requirements	(a) Sent to: The Secretary, Ministry of Corporate Affairs, in a sealed cover. (b) Mode: Registered Post with Acknowledgement Due, or by Speed post, followed by an e–mail in confirmation thereof. (c) Stationery: Report shall be in Auditors' Letterhead, containing his Membership Number, Postal Address, Email Address and Contact Number. It shall be signed and sealed by Auditor. (d) Format: Report shall be in Form ADT–4.
ADT–4 Contents	(a) Full details of suspected offence involving fraud (with documents in support), (b) Particulars of Officers / Employees who are suspected to be involved in the offence, (c) Basis on which fraud is suspected, (d) Period during which the suspected fraud has occurred, (e) Date of sending report to BOD / Audit Committee, and Date of reply, if any, received, (f) Whether Auditor is satisfied with the reply / observations of BOD / Audit Committee, (g) Estimated amount involved in the suspected fraud, (h) Steps taken by the Company, if any, in this regard, with full details of references.

Good faith [Sec.143(13)]	No duty to which the Company Auditor may be subject to shall be regarded as having been contravened by reason of his reporting the matter referred u/s 143(12), if it is done in good faith.
Contravention	(a) **Persons:** Auditor / Cost Accountant / Company Secretary, who do not comply with S.143(12) (b) **Punishment:** Fine of Minimum ` 1,00,000 Maximum ` 25,00,000.

Note:

Cost Audit / Secretarial Audit [Sec.143(14)]: Sec.143 (in entirety) shall be applicable for – (a) A Cost Accountant in Practice, conducting Cost Audit u/s 148, and

(b) A Company Secretary in Practice, conducting Secretarial Audit u/s 204.

9. **Signing Audit Report [Sec.145]:**

(a) The person appointed as Auditor of the Company shall – (i) sign the Auditor's Report, and (ii) sign or certify any other document of the Company as per Sec.141(2).

(b) If a Firm is appointed as Auditor of the Company, signing or certification shall be done only by the Chartered Accountants who are Partners and are authorised to act and sign on behalf of the Firm.

3.7 Punishment for Contravention [Sec.147]

Sec.	Nature of Act / Omission	Person punishable	Punishment
147	Contravention	(a) Company	Fine of Minimum ` 25,000 Maximum ` 5,00,000.

(1)	of Sec.139 to Sec.146	(b) Every Officer in Default	• Imprisonment of Maximum 1 Year, or • Fine of Minimum ` 10,000 Maximum ` 1,00,000, or • Both of the above.
147 (2)	Contravention of Sec.139, 143, 144, 145	Audit or	(a) **Normal:** Fine of Minimum ` 25,000 Maximum ` 5,00,000. (b) **If done knowingly or wilfully,** with intention to deceive the Company or its Shareholders or Creditors or Tax Authorities: • Imprisonment of Maximum 1 Year, or • Fine of Minimum ` 1,00,000 Maximum ` 25,00,000, or • Both of the above.

Notes: **Additional Liability of Auditor [Sec.147(3), (4)]**

1. If the Auditor is convicted u/s 147(2), he shall be liable to –
   (a) **refund the remuneration** received by him to the Company, and
   (b) **pay for damages** to the Company, Statutory Bodies or Authorities or to any other persons for loss arising out of incorrect or misleading statements made in his Audit Report.
2. The Central Government can notify any Statutory Body / Authority / Officer, to ensure prompt payment of damages to the Company or other entitled parties, and to file a report for compliance.

Joint and Several Liability in case of Audit by Firm [Sec.147(5)]

Situation	Where it is proved that the Partner or Partners of the Audit Firm has or have – (a) acted in a fraudulent manner, or (b) abetted or colluded in any fraud by, or in relation to or by, the Company or its Directors or Officers

Liability	The civil or criminal liability, as provided in this Act or in any other law, for such act shall be of the Partner or Partners concerned of the Audit Firm and of the Firm **jointly and severally.**

3.8 Cost Audit [Sec.148]

1. **Maintenance of Cost Accounts / Records [Sec.148(1)]:**
   (a) The Central Government can order for maintenance of Cost Accounts / Records.
   (b) Cost Accounts / Records shall comprise particulars relating to – (i) utilisation of material or labour, or (ii) other items of cost as may be prescribed.
   (c) Such order may be for specified class of Companies, engaged in – (i) production of specified goods, or (ii) providing prescribed services.
   (d) For such Companies, the books of account shall include these Cost Accounts / Records.
   (e) In case of Companies regulated under a Special Act, the Central Government shall consult that Regulatory Body established under that Act, before ordering maintenance of Cost Records.

2. **Cost Audit [Sec.148(2)]:**
   (a) The Central Government may, if it feels necessary, direct by an order that an audit of the Cost Records kept by a Company shall be conducted in the prescribed manner.
   (b) Such order relating to Cost Audit shall be given in case of Companies –
   - which are covered u/s 148(1), i.e. maintenance of Cost Records / Accounts, **and**,
   - which have a Net Worth or Turnover of prescribed amounts.

3. **Cost Auditor [Sec.148(3)]:**
   (a) Cost Audit shall be conducted by a Cost Accountant in practice (either Individual or Firm) (b) A Statutory Auditor of the Company u/s 139 **cannot** be a Cost Auditor of the Company.
   (c) Cost Auditor shall comply with the Cost Auditing Standards issued by the Institute of Cost and Works Accountants of India, with the approval of the Central Government.
   (d) The appointment and remuneration of Cost Accountant is as under –

Situation	**If Audit Committee is required u/s 177**	**No Requirement as to Audit Committee**
Appointment	By Board, on the recommendations of the Audit Committee.	By Board, on its own.

Remuneration	• Recommended by Audit Committee, • Approved by Board of Directors, and • Ratified by Shareholders.	• Fixed by Board of Directors, and • Ratified by Shareholders.

(e) Cost Audit shall be in addition to the audit conducted u/s 143.

4. **Rights, etc. of Cost Auditor [Sec.148(5)]:**

(a) The Qualifications, Disqualifications, Rights, Duties and Obligations applicable to Auditors under Chapter X, are applicable to Cost Auditor also.

(b) The Company is duty bound to give all assistance and facilities to the Cost Auditor for auditing the Cost Records.

5. **Cost Audit Report [Sec.148(5), (6), (7)]:**

(a) The Cost Auditor shall submit his report to the **Board of Directors** of the Company.

(b) **Within 30 days** from the receipt of Cost Audit Report, the Company shall furnish full information and explanation on every reservation or qualification contained in the Cost Audit Report, to the Central Government.

(c) If Central Government calls for further information and explanations, the Company should furnish the same within the timeframe specified by Central Government.

6. **Non Compliance [Sec.148(8)]:**

(a) The Company / Officer in Default is punishable in the manner provided in Sec.147(1). (b) The Cost Auditor is punishable in the manner provided in Sec.147(2) to (4).

3.9Provisions relating to Audit Committee

Applicability of Audit Committee:

The Board of directors of every listed companies and the following classes of companies, as prescribed under Rule 6 of Companies (Meetings of Board and its powers) Rules,2014 shall constitute an Audit Committee.

(i) all public companies with a paid up capital of Rs.10 Crores or more;

(ii) all public companies having turnover of Rs.100 Crores or more;

(iii) all public companies, having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding Rs.50 Crores or more.

The paid up share capital or turnover or outstanding loans, or borrowings or debentures or deposits, as the case may be, as existing on the date of last audited Financial Statements shall be taken into account for the purposes of this rule.

Composition:

The Audit Committee shall consist of a minimum of 3 directors with independent directors forming a majority.

The majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.

The Board's report under section 134(3) shall disclose the composition of an Audit committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons there for.

- The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote

Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include,—

(i) the recommendation for appointment, remuneration and terms of appointment of

auditors of the company;

(ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;

(iii) examination of the financial statement and the auditors' report thereon;

(iv) approval or any subsequent modification of transactions of the company with related parties;

(v) scrutiny of inter-corporate loans and investments;

(vi) valuation of undertakings or assets of the company, wherever it is necessary;

(vii) evaluation of internal financial controls and risk management systems;

(viii) Monitoring the end use of funds raised through public offers and related matters.

Chapter-9

Dividend

DEFINITION, MEANING AND NOMENCLATURE OF 'DIVIDEND'

Definition of dividend

Dividend *includes* any interim dividend [Section 2(35) of the Companies Act, 2013]. Therefore, all the provisions applicable to final dividend shall apply to interim dividend.

Meaning of dividend

- Dividend is the return on the investment of shareholders in a company. Only profits can be distributed as dividend. Dividend means the portion of the profits of the company which is distributed to the shareholders.
- Issue of bonus shares by capitalising the accumulated profits does not amount to 'dividend'.

Nomenclature of dividend

(a) Proposed dividend	***(b) Final dividend***	***(c) Interim dividend***
Dividend proposed *(i.e.,* recommended) by the Board is called as proposed dividend. The Board specifies in its report, the amount it recommends for payment of dividend (Section 134 of the Companies Act, 2013).	Proposed dividend, when consented to by the shareholders at the AGM, becomes final dividend. Thus, dividend is declared by the members in the AGM.	The dividend declared by the Board for a financial year during such financial year is called as interim dividend. Thus, interim dividend is the dividend which is declared in between two annual general meetings.

Declaration of dividend

- It is the prerogative of the Board to propose/recommend dividend. Whether dividend should be proposed or not for a particular year, shall be decided by the Board, since this matter pertains to management of the company. Regulation 80 of Table F also makes the same point. As per Regulation 80, the company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.

<u>Following conclusions are worth noting:</u>

(a) The power to declare dividend rests with the members, but the members can exercise such power only if the dividend is proposed by the Board.

(b) The rate of dividend proposed by the Board may be reduced by the members.

(c) The rate of dividend proposed by the Board cannot be increased by the members.
(d) Any provision in the articles, which authorises the members to declare dividend higher than the rate recommended by the Board, is void.

- To sum up, declaration of final dividend involves two stages, *viz.,* Recommendation of dividend by the Board, and then, declaration of dividend by the members. The members have no power to declare dividend unless dividend is recommended by the Board. Also, the Board has no power to declare dividend; its powers are limited to recommendation of dividend.

Declaration of dividend in AGM or EGM

***(a) Declaration of* Dividend is generally declared at an annual general meeting.**

The *dividend is generally* declared at an annual general meeting. The declaration of dividend at AGM is an item of ordinary business (Section 102 of the Companies Act, 2013).

***(b) Declaration of* dividend at EGM**

A company which could not declare dividend at an annual general meeting may do so at a subsequently held EGM. *In other words,* where for a particular financial year, no dividend is declared at the annual general meeting, the dividend for such financial year may be declared at an extraordinary general meeting. In such a case, the declaration of j dividend shall be a special business (Section 102 of the Companies Act, 2013).

Dividend on partly paid shares

(a) As per section 51 of the Companies Act, 2013, a company may pay dividends in proportion to the amount paid up on shares, if so authorised by its articles. However, no dividend shall be paid on calls in advance.
(b) Therefore, in the absence of any provision in the articles of the company, the dividend shall be paid on nominal value of a share, irrespective of amount paid up on shares.
(c) As per Regulation 83 of Table F, dividend shall be paid on the paid up value of shares. However, no dividend shall be paid on calls in advance.

CONDITIONS FOR DECLARATION AND PAYMENT OF DIVIDEND (Section 123 of the Companies Act, 2013)

Sources of dividend	The fundamental rule is that dividend is to be declared or paid only out of profits. *In other words,* the dividend for any financial can be declared or paid only out of the following sources: (a) Profits of the company for that financial year (after providing for depreciation) (b) Profits of the company for any previous financial year(s) and remaining undistributed (after providing for

	depreciation) (c) Moneys provided by the Central Government or State Government in pursuance of a guarantee given by it.
Provision for Depreciation	Depreciation shall be provided in accordance with the provisions of Schedule II.
Transfer to reserves	A company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company.
Declaration of dividend out of reserves	(a) Where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall not be made except in accordance with such Rules as may be prescribed in this behalf. (b) No dividend shall be declared or paid by a company from its reserves other than free reserves..
Prohibition on declaration of dividend	(a) A company shall not declare any dividend on its equity shares, if it has failed to comply with the provisions of- (i) Section 73 (Prohibition on acceptance of deposits from public); and (ii) Section 74 (Repayment of deposits, etc. accepted before commencement of this Act). (b) The prohibition on declaration of dividend on equity shares shall continue so long as the failure to comply with sections 73 and 74 continue.
Payment of dividend to whom?	The dividend shall be paid to - (a) the registered shareholder of shares; or (b) the order of the registered shareholder; or (c) the bankers of the registered shareholder.
Mode of payment	No dividend shall be payable except in cash, i.e. dividend shall be payable only in cash. However, payment of dividend by issue of a cheque or dividend warrant or payment of dividend in electronic mode is also permissible. However, issue of *bonus shares* or payment of a *bonus call* by capitalising the profits or reserves is permissible. *In other words,* where a company, instead of declaring dividend, issues bonus shares or makes a bonus call, it shall not be deemed to be a contravention of section 123. But, the issue of bonus shares in lieu of dividend declared

	is not permissible.
Deposit of dividend in separate bank account	The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within 5 days of declaration of such dividend.

DIVIDEND ETC. TO BE HELD IN ABEYANCE (Section 126 of the Companies Act, 2013

The object of section 126 is to ensure that pending the transfer of shares by the company, the right of the transferee to receive the dividend, right shares and bonus shares remains injact. The provisions of section 126 are explained hereunder:

1. Where a duly signed transfer-deed is" deposited with the company, but the transfer of shares has not yet been registered by the company, the company shall

(a) transfer the dividend in relation to such shares to the Unpaid Dividend Account, unless the registered shareholder authorises the company to pay such dividend to the transferee.

(b) keep in abeyance in relation to such shares any offer of rights shares or bonus shares.

Section 126 shall apply notwithstanding anything contained in any other provision of the Act. FAILURE TO DISTRIBUTE DIVIDENDS WITHIN 30 DAYS (Section 127 of the Companies Act, 2013)

Time limit for payment of dividend	The dividend shall be paid within 30 days from the date of declaration of dividend.
Exceptions	In the following cases, no default is deemed to have been committed by the company, even though the dividend is not paid *within 30 days* of its declaration: (a) Where dividend could not be paid by reason of the operation of any law. (b) Where a shareholder has given directions to the company regarding payment of dividend, but those directions cannot be complied with. (c) Where dividend is lawfully adjusted by the company against any sum due to it from the shareholder. (d) Where there is a dispute regarding the right to receive the dividend. (e) Where the non-payment of dividend is not due to any default of the company.
Penalty for non-payment	***(a) Director*** Every director who is knowingly a party to the default shall

	be liable for simple imprisonment upto 2 years and a fine of Rs. 1,000 per day for each day of default. ***(b) Company*** The company shall be liable to pay simple interest @ 18% per annum during the period for which the default continues.

REVOCATION OF DIVIDEND

No revocation of dividend

Revocation of dividend is not possible. Section 127 of the Companies Act, 2013 requires that dividend once declared must be paid *within 30 days* of its declaration. Section 127 of the Companies Act, 2013 also contains certain grounds on which non-payment of dividend does not result in a penalty. 'Revocation of dividend' is not a ground for non-payment of dividend as per Section 127 of the Companies Act, 2013. Therefore, dividend once declared becomes a debt due from the company and so it cannot be revoked.

Exceptions

In the following cases, the declared dividend may be revoked:

(a) Where declaration of dividend is *ultra vires (i.e.,* where dividend is declared although the company has not earned sufficient profits), the declared dividend can be revoked. However, if illegally declared dividend is paid, the directors shall be liable to indemnify the company, *i.e.,* they shall be personally liable.

(b) Where the company ceases to be a going concern, declared dividend may be revoked. *For example,* if, after declaration of dividend, but before payment of dividend, certain events happen which make the 'going concern' assumption invalid (e.g loss of undertaking of the company by fire), declared dividend may be revoked. .

NTERIM DIVIDEND [Section 2(35) and Section 123(3) of the Companies Act, 2013

Meaning	**According to section 2(35)**, "dividend" includes any interim dividend. **According to section 123(3)**, the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.
Declaration of interim dividend	The company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years. The Board of directors may declare interim dividend and the

	amount of dividend including interim dividend shall be deposited in a separate bank account within five days from the date of declaration of such dividend.
Power in articles	No specific power in the articles is required for declaration of interim dividend
Time limit for payment of interim dividend	The interim dividend must be paid within 30 days of its declaration, *i.e.,* within 30 days of date of passing the Board resolution declaring the interim dividend.
Deposit of interim dividend in separate bank account	The amount of interim dividend is to be compulsorily deposited in a scheduled bank in a separate bank account, within 5 days of passing the Board resolution declaring the interim dividend.
Revocation of interim dividend	Interim dividend once declared, like final dividend, is a debt due from the company. Accordingly, once declared, interim dividend cannot be revoked except under the same circumstances in which the final dividend can be revoked. In the following cases, the declared dividend (whether interim dividend or final dividend) may be revoked: (a) Where declaration of dividend is ultra vires [i.e., where dividend is declared although the company has not earned sufficient profits), the declared dividend can be revoked. However, if illegally declared dividend is paid, the directors shall be liable to indemnify . the company, i.e., they shall be personally liable. (b) Where the company ceases to be a going concern, declared dividend may be revoked. For example, if, after declaration of dividend, but before payment of dividend, certain . events happen which make the 'going concern' assumption invalid (e.g., loss of undertaking of the company by fire), declared dividend may be revoked.
Consequences if profits are inadequate	While declaring interim dividend the Board should carefully assess the adequacy of profits. Therefore, the opinion of auditors should be obtained. In the event of absence or inadequacy of profits, the distribution shall amount to unauthorised reduction of capital.
Approval of interim dividend	The interim dividend paid by the Board of directors is generally approved by the shareholders at the ensuing annual general meeting
Interim dividend vis-a-vis final dividend	It can be concluded that there is no difference between interim dividend and final dividend, except the following: (a) Interim dividend is declared before determination of the profits of the relevant financial .year. Final dividend is declared after determination of the profits of the relevant financial year. (b) Interim dividend is declared by the Board of directors in a Board meeting. Final dividend is declared by the members in annual general meeting. (c) Interim dividend is required to be approved by the members in the annual general meeting. Once declared by the members in annual general meeting, final dividend does not require any approval or confirmation.

CONSEQUENCES OF PAYMENT OF DIVIDEND OUT OF CAPITAL

The most fundamental condition regarding payment of dividend is that the dividend must be paid out of profits, and not out of capital. Payment of dividend out of capital amounts to unauthorised reduction of capital. The consequences of such payment are as follows:
(a) The directors who knowingly paid dividends out of capital shall be held personally liable to make good the loss caused to the company.
(b) The directors have a right of indemnity against the members who received dividends knowing that the dividend was being paid out of capital.
(c) Where dividends improperly paid out of capital have been made good out of subsequent profits, liability ceases to-attach to the directors.

DECLARATION OF DIVIDEND OUT OF RESERVES

The provisions relating to declaration of dividend out of reserves are contained in 2nd and 3rd Proviso to sub-section (1) of section 123 of the Companies Act, 2013 read with the Companies (Declaration and Payment of Dividend) Rules, 2014, discussed as under:

Dividend to be declared out of free reserves [Third Proviso to Section 123(1)]	No dividend shall be declared or paid by a company from its reserves other than free reserves.
Dividend may be declared in accordance with the Rules [Second Proviso to Section 123(1)]	Where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall not be made except in accordance with such Rules as may be prescribed in this behalf.
Conditions for declaration of dividend out of reserves [Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014]	In the event of inadequacy or absence of profits in any year, a company may declare dividend out of surplus subject to the fulfilment of the following conditions: (a) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by it in the 3 years immediately preceding that year. However, this condition shall not apply to a company, which has not declared . any dividend in each of the,3 preceding financial year. (b) The total amount to be drawn from such accumulated profits shall not exceed 1/10th of the sum of its paid-up share capital and free reserves as appearing in the latest audited financial statement. (c) The amount so drawn shall first be utilised to.set off the losses incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared.

	(d) The balance of reserves after such withdrawal shall not fall below 15% of its paid up share capital as appearing in the latest audited financial statement. (e) No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set.off against profit of the company of the current year.
Payment of dividend by utilising credit balance of Profit and Loss Account	Carried forward profits which have not been transferred to the reserves *(i.e.* credit balance in the Profit and Loss Account) can be utilised for payment of dividend without any restriction. Such utilisation would not amount to withdrawal of profits from reserves.

RELEVANT SECTIONS OF THE COMPANIES ACT, 1956 APPLICABLE FOR EXAMINATIONS

Sec. 124 and 125 of the Companies Act, 2013 correspond to Sec. 205A and 205C of the Companies Act, 1956. However, Sec. 124 and 125 of the Companies Act, 2013 have not been notified till 30.09.2014, and are therefore, not applicable for May, 2015 CA (Final) Exams. Sec. 205A and 205C of the Companies Act, 1956 continue to be applicable for May, 2015 CA (Final) Exams.

UNPAID DIVIDEND AND INVESTOR EDUCATION AND PROTECTION FUND -(Sections 205A and 205C of the Companies Act, 1956) *

Treatment of dividend declared but remaining unpaid

(a) Transferred to unpaid dividend account

Dividend remaining unpaid or unclaimed *for 30 days* from the date of its declaration shall be transferred *within* 7 *days* to a special account in any scheduled bank to be called 'Unpaid Dividend Account of ... Company Limited/Company (Private) Limited'

b) Interest for delayed transfer

Interest *at the rate of 12% per annum* is payable by the company for delay in making the above transfer.

Treatment of dividend remaining unpaid in 'unpaid dividend account'

a) Transfer to 'Investor Education and Protection Fund'

Any money transferred to the unpaid dividend account of a company which remains unpaid for 7 years from the date of such transfer shall be transferred by the company to the 'Investor Education and Protection Fund' (hereinafter called as 'Fund').

b) Discharge of company

On transfer of unpaid dividend to the Fund, the company shall be discharged of all its liabilities in respect of unpaid dividend.

c) No payment after 7 years

No person shall be entitled to claim any money transferred to the Fund, *i.e.*, if unpaid dividend is not claimed by the shareholder within 7 years, he shall loose all his rights to recover it

Meaning and provisions applicable to Investor Education and Protection Fund

(a) Credits to the Fund	Following sums shall be credited to the Fund: ■ Following sums remaining unpaid for 7 years from the due

	date: (a) Amount in the unpaid dividend account (b) Application moneys received and due for refund (c) Deposits matured but remaining unpaid (d) Debentures matured but remaining unpaid ■ Interest accrued on the amounts referred to in clauses (a) to (d) ■ Grants and donations by the Central Government or State Government, or any other institutions ■ Interest or other income received out of the investments.
b) Furnishing of details	When making a transfer to the Fund, the company shall furnish following details to the authority appointed by the Central Government: " All sums included in such transfer ■ Nature of the sums ■ Names and last known addresses of the persons entitled to receive the sum ■ The amount to which each person is entitled ■ Such other particulars as may be prescribed.
(c) Receipt to be furnished to the company	On transfer of any money to the Fund, the authority managing such Fund shall issue a receipt to the company acknowledging the transfer of money in the Fund. Such receipt shall be an effectual discharge of the company in respect of money transferred to the Fund.
(d) Utilisation of Fund	The amount accumulated in the Fund shall be used for the purpose of ■ promotion of awareness among the investors; *and* ■ protection of the interests of investors.
(e) Administration of Fund	The authority appointed by the Central Government shall administer the Fund and shall be competent to spend moneys for carrying out the objects.

<u>Payment of moneys transferred to the Fund</u>

(a) No person shall be entitled to any money transferred to the Fund.
(b) No claim shall lie against the company in respect of amounts transferred to the Fund.

FORM NO.3CD

[See rule 6G(2)]

Statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961

PART - A

1.	Name of the Assessee	:	**XY Z Private Limited**
2.	Address	:	A-23, Mahavir Enclave-II, Dist. Centre, Janakpuri
3.	Permanent Account Number (PAN)	:	ABCDE1234F
4.	Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty,etc. if yes, please furnish the registration number or any other identification number allotted for the same	:	
5.	Status	:	Private Limited Company; Resident
6.	Previous year	:	March 31, 2014
7.	Assessment year	:	2014-2015
8.	Indicate the relevant clause of section 44AB under which the audit has been conducted	:	

PART - B

9.	(a)	If firm or association of persons, indicate names of partners/members and their profit sharing ratios.	:	Not Applicable
	(b)	If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change	:	Not Applicable
10.	(a)	Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession)	:	Imparting Vocational Training in Aviation, Hospitality & Travelling Sectors, Corporate and Commercial Training, Job Assistance Support, Trade & Publication of Aviation Magazine, Man Power Recruitment Services and Security Services.
	(b)	If there is any change in the nature of business or profession, the particulars of such change.	:	No
11.	(a)	Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed.	:	No
	(b)	List of books of account maintained and the address at which the books of accounts are kept.	:	Cash Book, Bank Book, Journal Book and General Ledgers.
		(In case books of account are maintained in a computer system, mention the books of account generated by such computer system. If the books of accounts are not kept at one location, please furnish the addresses of locations along with the details of books of accounts maintained at each location.)		
	(c)	List of books of account and nature of relevant documents examined.	:	Cash Book, Bank Book, Journal Book and General Ledgers.
12.		Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section.)	:	No

13.	(a)	Method of accounting employed in the previous year	:	Mercantile.
	(b)	Whether there had been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year.	:	No
	(c)	If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss.	:	No

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)
1			
2			

	(d)	Details of deviation, if any, in the method of accounting employed in the previous year from accounting standards prescribed under section 145 and the effect thereof on the profit or loss.	:	Nil
14.	(a)	Method of valuation of closing stock employed in the previous year.	:	At Cost
	(b)	In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish:	:	Nil

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)
1			
2			

15.		Give the following particulars of the capital asset converted into stock-in trade: -	:	Nil
	(a)	Description of capital asset;		
	(b)	Date of acquisition		
	(c)	Cost of acquisition		
	(d)	Amount at which the asset is converted into stock-in-trade.		
16.		Amounts not credited to the profit and loss account, being, -		
	(a)	the items falling within the scope of section 28;	:	Nil
	(b)	the pro forma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned;	:	Nil
	(c)	escalation claims accepted during the previous year;	:	Nil
	(d)	any other item of income;	:	Nil
	(e)	capital receipt, if any.	:	Nil
17.		Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish:		

Details of property	Consideration received or accrued	Value adopted or assessed or assessable

18.	Particulars of depreciation allowable as per the Income Tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the following form :-		
	(a) Description of asset/block of assets.	:	As per Annexure - I
	(b) Rate of depreciation.	:	As per Annexure - I
	(c) Actual cost of written down value, as the case may be.	:	As per Annexure - I
	(d) Additions/deductions during the year with dates; in the case of any addition of an asset, date put to use; including adjustments on account of –	:	As per Annexure - I
	(i) Central Value Added Tax credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets acquired on or after 1st March, 1994,	:	Nil
	(ii) change in rate of exchange of currency, and	:	Nil
	(iii) subsidy or grant or reimbursement, by whatever name called.	:	Nil
	(e) Depreciation allowable.	:	As per Annexure - I
	(f) Written down value at the end of the year.	:	As per Annexure - I
19.	Amounts admissible under sections:		

Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income Tax Act, 1961 and also fulfils the conditions, if any specified under the the conditions, if any specified under the relevant 14provisions of Income Tax Act, 1961 or Income Tax Rules,1962 or any other guidelines, circular, etc., issued in this behalf.
32AC		
33AB		
33ABA		
35(1)(i)		
35(1)(ii)		
35(1)(iia)		
35(1)(iii)		
35(1)(iv)		
35(2AA)		
35(2AB)		
35ABB		
35AC		
35AD		
35CCA		
35CCB		
35CCC		
35CCD		
35D		
35DD		
35DDA		
35E		

20.	(a)	Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)]	:	Nil
	(b)	Details of contributions received from employees for various funds as referred to in section 36(1)(va):	:	As Per Annexure - II & III

Serial number	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities

21. (a) Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure etc

Nature	Serial number	Particulars	Amount in Rs.
Expenditure incurred at clubs being cost for club services and facilities used.			
Expenditure by way of penalty or fine for violation of any law for the time being force			
Expenditure by way of any other penalty or fine not covered above			
Expenditure incurred for any purpose which is an offence or which is prohibited by law			

(b) Amounts inadmissible under section 40(a):-

(i) as payment to non-resident referred to in sub-clause (i)

(A) Details of payment on which tax is not deducted:

(I) date of payment
(II) amount of payment
(III) nature of payment
(IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)

(I) date of payment
(II) amount of payment
(III) nature of payment
(IV) name and address of the payee
(V) amount of tax deducted

(ii) as payment referred to in sub-clause (ia)

(A) Details of payment on which tax is not deducted:

(I) date of payment

(II) amount of payment

(III) nature of payment

(IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub- section (1) of section 139

(I) date of payment

(II) amount of payment

(III) nature of payment

(IV) name and address of the payer

(V) amount of tax deducted

(VI) amount out of (V) deposited, if any

(iii) under sub-clause (ic) [Wherever applicable]

(iv) under sub-clause (iia)

(v) under sub-clause (iib)

(vi) under sub-clause (iii)

(A) date of payment

(B) amount of payment

(C) name and address of the payee

(vii) under sub-clause (iv)

(viii) under sub-clause (v)

(c) Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/40(ba) and computation thereof;

(d) Disallowance/deemed income under section 40A(3):

(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details:

Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft If not, please furnish the details of amount deemed to be the profits and gains of business or profession under section 40A(3A);

Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

	(e) provision for payment of gratuity not allowable under section 40A(7); (f) any sum paid by the assessee as an employer not allowable under section 40A(9); (g) particulars of any liability of a contingent nature; (h) amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income; (i) amount inadmissible under the proviso to section 36(1)(iii).		
22.	Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.	:	
23.	Particulars of payments made to persons specified under section 40A(2)(b).	:	Nil
24.	Amounts deemed to be profits and gains under section 32AC or 33AB or 33ABA or 33AC.	:	As per Annexure - IV
25.	Any amount of profit chargeable to tax under section 41 and computation thereof.	:	Nil
26.	In respect of any sum referred to in clause (a),(b), (c), (d), (e) or (f) of section 43B, the liability for which:-		
	(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was (a) paid during the previous year; (b) not paid during the previous year;	:	As per Annexure - VI
	(B) was incurred in the previous year and was (a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1); (b) not paid on or before the aforesaid date.	:	As per Annexure - VII
	(State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.)		No
27.	(a) Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.	:	Not Applicable
	(b) Particulars of income or expenditure of prior period credited or debited to the profit and loss account.	:	As per Annexure - VIII

28.	Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viia), if yes, please furnish the details of the same.	:	Nil
29.	Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.	:	Nil
30.	Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]	:	Nil
31.	*(a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year :-	:	As per Annexure - IX
	(i) name, address and permanent account number (if available with the assessee) of the lender or depositor;		
	(ii) amount of loan or deposit taken or accepted;		
	(iii) whether the loan or deposit was squared up during the previous year;		
	(iv) maximum amount outstanding in the account at any time during the previous year;		
	(v) whether the loan or deposit was taken or accepted otherwise than by an account payee cheque or an account payee bank draft.		
	* (These particulars needs not be given in the case of a Government company, a banking company or a corporation established by a Central, State or Provincial Act.)		
	(b) Particulars of each repayment of loan or deposit in an amount exceeding the limit specified in section 269T made during the previous year :-	:	As per Annexure - X
	(i) name, address and Permanent Account Number (if available with the assessee) of the payee;		
	(ii) amount of the repayment;		
	(iii) maximum amount outstanding in the account at any time during the previous year;		
	(iv) whether the repayment was made otherwise than by account payee cheque or account payee bank draft.		

	(c)	Whether the taking or accepting loan or deposit, or repayment of the same were made by account payee cheque drawn on a bank or account payee bank draft based on the examination of books of account and other relevant documents (The particulars (i) to (iv) at (b) and comment at (c) above need not be given in the case of a repayment of any loan or deposit taken or accepted from Government, Government company, banking company or a corporation established by a Central, State or Provincial Act)	: Yes
32.	(a)	Details of brought forward loss or depreciation allowance, in the following manner, to the extent available :	:

Serial Number	Assessment Year	Nature of loss/ allowance (In rupees)	Amount as returned (in rupees)	Amount as assessed (give reference to relevant order	Remarks
1	2013-14	Business Loss		-	As per Return
	2013-14	Depreciation		-	As per Return
2	2012-13	Business Loss		-	As per Return
	2012-13	Depreciation		-	As per Return

	(b)	Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.	: Nil
	(c)	Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year, If yes, please furnish the details of the same.	
	(d)	whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same.	
	(e)	In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.	
33.		Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).	:

Section under which deduction is claimed	Amounts admissible as per the provision of the Income Tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income Tax Act, 1961 or Income Tax Rules,1962 or any other guidelines, circular, etc, issued in this behalf.
80G	

34.	(a)	Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:	: Generally Yes

Tax deduction and collection Account Number (TAN)	Section	Nature of payment	Total amount of payment or receipt of the nature specified in column (3)	Total amount on which tax was required to be deducted or collected out of (4)	Total amount on which tax was deducted or collected at specified rate out of (5)	Amount of tax deducted or collected out of (6)	Total amount on which tax was deducted or collected at less than specified rate out of (7)	Amount of tax deducted or collected on (8)	Amount of tax deducted or collected not deposited to the credit of the Central Government out of (6) and (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

	(b)	whether the assessee has furnished the statement of tax deducted or tax collected within the prescribed time. If not, please furnish the details:	

Tax deduction and collection Account Number (TAN)	Type of Form	Due date for furnishing	Date of furnishing, if furnished	Whether the statement of tax deducted or collected contains information about all transactions which are required to be reported

	(c)	whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:	

Tax deduction and collection Account Number (TAN)	Amount of interest under section 201(1A)/206C(7) is payable	Amount paid out of column (2) along with date of payment.

35.	(a)	In the case of a trading concern, give quantitative details of principal items of goods traded : (i) Opening Stock; (ii) purchases during the previous year; (iii) sales during the previous year; (iv) closing stock; (v) shortage/excess, if any	:	Not Applicable
	(b)	In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products :	:	Not Applicable
		A. Raw Materials : (i) opening stock; (ii) purchases during the previous year; (iii) consumption during the previous year; (iv) sales during the previous year; (v) closing stock; (vi) yield of finished products; (vii) percentage of yield; (viii)'shortage/excess, if any.	:	Nil

	B. Finished products/by- products : (i) opening stock; (ii) purchases during the previous year; (iii) quantity manufactured during the previous year; (iv) sales during the previous year; (v) closing stock; (vi) shortage/excess, if any.		Nil
36.	In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form :-		
	(a) total amount of distributed profits;	:	Nil
	(b) amount of reduction as referred to in section 115-O(1A)(i);	:	Nil
	(c) amount of reduction as referred to in section 115-O(1A)(ii);	:	Not Applicable
	(d) total tax paid thereon;	:	
	(e) dates of payment with amounts.	:	
37.	Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.	:	Not Applicable
38.	Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.	:	
39.	Whether any audit was conducted under section 72A of the Finance Act,1994 in relation to valuation of taxable services, Finance Act,1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.	:	
40.	Details regarding turnover, gross profit, etc., for the previous year and preceding previous year:		

S.No.	Particulars	Previous year	Preceding Previous year
1	Total turnover of the assessee		
2	Gross profit/turnover		
3	Net profit/turnover		
4	Stock-in-trade/turnover		
5	Material consumed/finished goods produced		

	(The details required to be furnished for principal items of goods traded or manufactured or services rendered)		
41.	Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 alongwith details of relevant proceedings.	:	Not Applicable

for Subhash Choudhary & Associates
Chartered Accountants
Firm Regn. No. 0…………….

CA XYZ
Partner
M. No. 0…………
Delhi: September XX XXXX