3

Accounts of Companies

DEFINITIONS

Section 2(2) "accounting standards" means the standards of accounting or any addendum thereto for companies or class of companies referred to in section 133.

Section 2(12) "book and paper" and "book or paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form.

Section 2(13) "books of account" includes records maintained in respect of—

- all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place.
- all sales and purchases of goods and services by the company.
- the assets and liabilities of the company. and
- the items of cost as may be prescribed under section 148.

Section 2(40) "financial statement" in relation to a company, includes—

- a balance sheet.
- a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account.
- cash flow statement for the financial year (but for OPC, small and dormant companies, this is not included).
- a statement of changes in equity, if applicable. and
- any explanatory note or any document referred to the above.

Section 2(41) "financial year" in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up:

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of 2 years from such commencement, align its financial year as per the provisions of this clause.

SECTION-128: BOOKS OF ACCOUNT ETC. TO BE KEPT BY COMPANY

Qn. State the provisions that would be attracted for non-compliance of maintenance of books of accounts u/s 128 of Companies Act, 2013? (CMA PTP J-16 S-1)

Maintenance of Books of Accounts

- ☑ Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statement for every financial year.
- ☑ give a true and fair view of the state of the affairs of the company, including its branch offices.
- ☑ such books shall be kept on accrual basis and according to the double entry system of accounting:
- ☑ all books of accounts may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within 7 days thereof, file with the Registrar a notice in writing in **Form AOC-5** giving the full address of that other place:
- ☑ The company may keep such books of account in electronic mode in such manner prescribed under Rule-3.

Rule-3: Manner of books of account to be kept in electronic mode

- The books of account maintained in electronic mode shall remain accessible in India.
- The books of account shall be retained completely in the format in which they were originally generated, sent or received
- The information received from branch offices shall not be altered.
- The information in the electronic record of the document shall be capable of being displayed in a legible form.
- 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

- such records shall not be disposed of or rendered unusable, unless permitted by law:
- the back-up of the books of account maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a periodic basis.
- The company shall intimate to the Registrar on an annual basis at the time of filing of financial statement - (a) the name of the service provider (b) the internet protocol address of service provider (c) the location of the service provider (wherever applicable) (d) where the books of account and other books and papers are maintained on cloud, such address as provided by the service provider.

☑ Where a company has a branch office in India or outside India, books of account relating to the branch office are kept at that office and proper summarised returns periodically are sent by the branch office to the company at its registered office or the other place referred above.

Inspection of books

☑ The books of account maintained by the company within India shall be open for inspection at the RO of the company or at such other place in India by any director during business hours.

☑ Inspection in respect of any subsidiary of the company shall be done only by the person authorised as per board resolution.

☑ In the case of financial information, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions prescribed as per Rule-4.

Rule-4: Conditions regarding maintenance and inspection of certain financial information by directors.

- The summarised returns of the books of account maintained outside India shall be sent to the registered office at quarterly intervals and kept open to directors for inspection.
- Where any other financial information maintained outside the country is required by a director, the director shall furnish a request to the company and shall produce such financial information to the director within 15 days of the date of receipt of the written request.
- The financial information required above shall be sought for by the director himself and not by or through his power of attorney holder or agent or representative.

☑ Where an inspection is made, the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection.

Period of maintenance of books

☑ The books of account of every company relating to a period of not less than 8 financial years immediately preceding a financial year, or where the company had been in existence for a period less than 8 years, in respect of all the preceding years shall be kept in good order.

☑ where an investigation has been ordered under Chapter XIV, the CG may direct that the books of account may be kept for such longer period.

Punishment

Persons punishable	Penalty
Managing Director Whole Time Director in Charge of Finance Chief financial Officer or Any other person of a company charged by the Board with the duty	Imprisonment: 1 year Fine: minimum – ₹50,000; Maximum – ₹5 Lakhs or both

MCA vide General Circular No. 08/2014 dated 4th April, 2014

The financial statements, auditors report and Board report in respect of financial years that commenced earlier than 01.04.2014 shall be governed by the relevant provisions/ Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing ≥ 01.04.2014, the provisions of the 2013 Act shall apply.

SECTION-129: FINANCIAL STATEMENT

Preparation of financial statement: -

☑ The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards and shall be in Schedule III:

- ☑ the items contained in such financial statements shall be in accordance with the accounting standards:

Exceptions or Exemptions from application of this section

- ☑ Nothing contained in this sub-section shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company:
- ☑ The financial statements shall not be treated as not disclosing a true and fair view of the state of affairs of the company, merely by reason of the fact that they do not disclose-

Nature of the Organization	Relevant Matters
Insurance Company	any matters which are not required to be disclosed by the Insurance Act, 1938, or the IRDA, 1999.
Banking Company	any matters which are not required to be disclosed by the Banking Regulation Act, 1949.
Electricity Companies	any matters which are not required to be disclosed by the Electricity Act, 2003.
Any other law governing companies	any matters which are not required to be disclosed by that law.

Laid before AGM

- ☑ At every AGM of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.
- ☑ Where a company has one or more subsidiaries, it shall, in addition to financial statements, prepare a CFS of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the AGM of the company along with the laying of its financial statement.
- ☑ the company shall also attach along a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in **FORM AOC-1.**

Consolidation of Accounts

- ☑ the Central Government may provide for the consolidation of accounts of companies in such manner prescribed in RULE-6.

RULE-6. Manner of consolidation of accounts

The consolidation of financial statements of the company shall be made in accordance with the provisions of Schedule III of the Act and the applicable accounting standards i.e. AS-21, AS-23, AS-27.

Provided that in case of a company covered under sub-section (3) of section 129 which is not required to prepare consolidated financial statements under the Accounting Standards, it shall be sufficient if the company complies with provisions on consolidated financial statements provided in Schedule III of the Act. **(proviso-1)**

Important Note point for Proviso-1: It is noted that relevant Indian Accounting Standard i.e., Ind AS 110, Consolidated Financial Statements provides that where an entity has control on one or more other entities, the controlling entity is required to consolidate all the controlled entities. Since, the word 'entity' includes a company as well as any other form of entity, therefore, LLPs and partnership firms are required to be consolidated. Similarly, under Accounting Standard (AS) 21, as per the definition of subsidiary, an enterprise controlled by the parent is required to be consolidated. The term 'enterprise' includes a company and any enterprise other than a company. Therefore, under AS also, LLPs and partnership firms are required to be consolidated.

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

- it is a wholly-owned subsidiary, or is a partially-owned subsidiary of another company and all its other members, including those not otherwise entitled to vote, having been intimated in writing and for which the proof of delivery of such intimation is available with the company, do not object to the company not presenting CFS.
- it is a company whose securities are not listed or are not in the process of listing on any stock

exchange, whether in India or outside India. and

- its ultimate or any intermediate holding company files CFS with the Registrar which are in compliance with the applicable Accounting Standards. **(Proviso-2)**

Provided also that nothing contained in this rule shall, subject to any other law or regulation, apply for the financial year commencing from the 01-04-2014 and ending on the 31-03-2015, in case of a company which does not have a subsidiary or subsidiaries but has ≥ 1 associate companies or joint ventures or both, for the CFS in respect of associate companies or joint ventures or both, as the case may be. **(Proviso-3)**

Example: 'XYZ Private Limited' a Parent Company has an associate company named 'ABC Private Limited' and a Joint Venture named 'PQR Private Limited'. All the three companies are incorporated in India and XYZ Private limited has no Subsidiary Company. Will 'XYZ consultancy Private Limited' be required to prepare CFS for the FY 2014-15? – No, see 3rd proviso to Rule-6, but it is required to prepare consolidated financial statements for its associate and joint venture in accordance with the applicable Accounting Standards, viz, AS 23, Accounting for Investments in Associates in Consolidated Financial Statements and AS 27, Financial Reporting of Interests in Joint Ventures, respectively.

Provided also that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 01-04-2014. **(Proviso-4)**

Example: A Private Limited' has two foreign subsidiaries named 'B Inc.' and 'C Inc.' Will 'A Private -limited, be require to prepare CFS for the FY 2014-15? -No see 4th Proviso to Rule-6.

Note: the word "subsidiary" shall include associate company and joint venture.

MCA vide General Circular No. 39/2014 dated 14.10.2014

It is clarified that Schedule III to the Act read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.

- ☑ The provisions of this Act applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, apply to the CFS.
- ☑ where the financial statements of a company do not comply with the accounting standards, the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.
- ☑ The Central Government may, on its own or on an application exempt companies from complying with requirements of this section or the rules.

Notification S.O. 2437(E) dated 04.09.2015

Central government exempts certain paras given under for companies engaged in defense production, subject to certain conditions to be fulfilled by such companies:

- The Board of Directors of the Company has given consent with regard to non-disclosure of information relating to paras 5(ii)(a)(1), 5(ii)(a)(2), 5(ii)(e), 5(iii), s(viii)(a), 5(viii)(b), 5(viii)(c) and 5(viii)(e), as may be applicable.
- shall disclose in the Notes forming part of the balance sheet and profit and loss account, the fact of grant of exemption under this notification.
- shall comply with the prescribed ASs.
- shall ensure that its financial statements represent a true and fair state of affairs of its finances. and
- shall maintain and file such information as may be prescribed or called for or required by the Government or the RBI or any other regulator

This notification shall be applicable in respect of financial statement prepared in respect of the financial years ending ≥ 31st March, 2016.

Punishment

Persons punishable	Penalty
Managing Director Whole Time Director in Charge of Finance Chief financial Officer or Any other person of a company charged by the Board with the duty or In the absence of any of the officers mentioned above, all the directors	Imprisonment: 1 year Fine: minimum – ₹50,000; Maximum – ₹5 Lakhs or both

Note: financial statement shall include any notes annexed to or forming part of such financial statement.

Exemption to Government Companies (Notification No. G.S.R. 463(E) dated 05.06.2015)

Section 129 shall not apply to the extent of application of AS- 17(segment reporting) to the companies engaged in defense production.

SECTION-130: RE-OPENING OF ACCOUNTS ON COURT'S OR TRIBUNAL'S ORDERS.

Re-opening of accounts upon Application

☑ A company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the

Central Government, the Income-tax authorities, the SEBI, any other statutory regulatory body or authority or any person concerned	AND	an order is made by a court of competent jurisdiction or the Tribunal to the effect that — the relevant earlier accounts were prepared in a fraudulent manner. or the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:

Notice

☑ Before passing any order under this section,

the court or the Tribunal, shall give notice to the Central Government, the Income-tax authorities, the SEBI or any other statutory regulatory body or authority concerned	AND	shall take into consideration the representations, if any, made by that Government or the authorities, SEBI or the body or authority concerned.

Final

☑ the accounts so revised or re-cast shall be final.

SECTION-131: VOLUNTARY REVISION OF FINANCIAL STATEMENTS OR BOARD'S REPORT.

Qn. The Board of directors of a company decides to revise the accounts which have already been adopted by the shareholders in annual general meeting. Advise. (CA FINAL MAY.1995,2006) (CMA RTP DEC.14).

Revision of accounts

☑ If it appears to the directors of a company that —
- the financial statement of the company. or
- the report of the Board, do not comply with the provisions of section 129 or section 134 they may prepare revised financial statement or a revised report in respect of any of the 3 preceding financial years.

Approval

- Such Revision can be made only after obtaining approval of the Tribunal on an application made by the company in **Form No NCLT-1**.
- The above application shall be filed to tribunal within 14 days from the date of decision taken by

the the Board.

- A certified copy shall be filed with ROC within 30 days of the date of receipt of the certified copy.
- the Tribunal shall give notice to the CG and the Income- tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section.
- such revised financial statement or report shall not be prepared or filed more than once in a financial year:
- the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

Revision must be confined to

☑ Where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions must be confined to—

- the correction in respect of which the previous financial statement or report do not comply with the provisions of section 129 or section 134. and
- the making of any necessary consequential alternation.

Central government may make rules

☑ The Central Government may make rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report and such rules may, in particular—

- 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.
- make provisions with respect to the functions of the company's auditor in relation to the revised financial statement or report.
- require the directors to take such steps as may be prescribed.

SECTION-133: CENTRAL GOVERNMENT TO PRESCRIBE ACCOUNTING STANDARDS

The CG may prescribe the standards of accounting or any addendum thereto, as recommended by the ICAI in consultation with and after examination of the recommendations made by the NFRA.

Until the National Financial Reporting Authority(NFRA) is constituted under section 132 of the Companies Act, 2013, the CG may prescribe the standards of accounting or any addendum thereto, as recommended by the ICAI in consultation with and after examination of the recommendations made by NACAS.

RULE-7. Transitional provisions with respect to Accounting Standards

- The standards of accounting as specified under the Companies Act, 1956 shall be deemed to be the accounting standards until accounting standards are specified by the Central Government under section 133.
- Till the NFRA is constituted under section 132 of the Act, the Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India in consultation with and after examination of the recommendations made by the NACAS.

MCA vide General Circular No. 15/2013 dated 13.09.2013

Till the Standards of Accounting or any addendum thereto are prescribed by central Government in consultation and recommendation of the National Financial Reporting Authority, the existing Accounting Standards notified under the Companies Act 1956 shall continue to apply.

SECTION-210A OF COMPANIES ACT, 1956: CONSTITUTION OF NATIONAL ADVISORY COMMITTEE ON ACCOUNT-ING STANDARDS (NACAS)

☑ The Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the NACAS (hereafter in this section referred to as the "Advisory Committee") to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under this Act.

☑ The Advisory Committee shall consist of the following members, namely: -

- a Chairperson who shall be a person of eminence and well versed in accountancy, finance, business administration, business law, economics or similar discipline.
- one member each nominated by the ICAI, ICWAI, ICSI.
- 1 representative of the Central Government to be nominated by it.
- 1 representative of the RBI to be nominated by it.
- 1 representative of the C&AG of India to be nominated by him.
- a person who holds or has held the office of professor in accountancy, finance or business management in any university or deemed university.
- the Chairman of the CBDT or his nominee.
- 2 members to represent the Chambers of Commerce and Industry to be nominated by the Central Government. and
- 1 representative of the SEBI to be nominated by it.

☑ The Advisory Committee shall give its recommendations to the Central Government on such matters of accounting policies and standards and auditing as may be referred to it for advice from time to time.

SECTION-134: FINANCIAL STATEMENT, BOARD'S REPORT, ETC.

RULE 8(1) The Board's Report shall be prepared based on the stand alone financial statements of the company and shall report on the highlights of performance of subsidiaries, associates and joint venture companies and their contribution to the overall performance of the company during the period under report.

Signing of financial statements

☑ The financial statement, including CFS, if any, shall be approved by the

- Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or
- by 2 directors out of which 1 shall be managing director and the Chief Executive Officer, if he is a director in the company.
- the Chief Financial Officer and the company secretary, wherever they are appointed, or
- in the case of a OPC, only by 1 director, for submission to the auditor for his report thereon.

Attachment of auditor's Report

☑ The auditors' report shall be attached to every financial statement.

Content of board report

☑ There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

- the extract of the annual return as provided under sub-section (3) of section 92.
- number of meetings of the Board.
- Directors' Responsibility Statement. (DRS)
- details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government.
- a statement on declaration given by independent directors under Section 149(6).
- in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178. **(This shall not apply to government companies).**
- explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—
- by the auditor in his report.
- by the company secretary in practice in his secretarial audit report.
- particulars of loans, guarantees or investments under section 186.
- particulars of contracts or arrangements with related parties referred to in section 188 in the **Form AOC-2.**
- the state of the company's affairs.
- the amounts, if any, which it proposes to carry to any reserves.

- the amount, if any, which it recommends should be paid by way of dividend.
- 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.
- the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed in Rule 8(3).

RULE 8(3) The report of the Board shall contain the following information and details viz.

(A) Conservation of energy-
- the steps taken or impact on conservation of energy.
- the steps taken by the company for utilising alternate sources of energy.
- the capital investment on energy conservation equipment's.

(B) Technology absorption-
- the efforts made towards technology absorption.
- the 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)-
  - the details of technology imported.
  - the year of import.
  - whether the technology been fully absorbed.
  - if not fully absorbed, areas where absorption has not taken place, and the reasons thereof. and
- the expenditure incurred on R&D.

(C) Foreign exchange earnings and Outgo the Foreign Exchange earned in terms of actual inflows during the year and the Foreign Exchange outgo during the year in terms of actual outflows.

Note: furnishing information and details under this sub-rule shall not apply to a Government company engaged in producing defence equipment.

- 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.
- the details about the policy developed and implemented by the company on CSR initiatives taken during the year.
- in case of a listed company and every other public company having such paid-up share capital of 25 crores 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.

EXEMPTION TO GOVERNMENT COMPANIES

The above formal annual evaluation Shall not apply in case the director is evaluated by the Ministry or Department of the CG which is administratively in charge of the company, or, as the case may be, the State Government as per its own evaluation methodology.

- such other matters prescribed in Rule 8(5).

RULE 8(5) The report of the Board shall also contain –

- the financial summary or highlights.
- the change in the nature of business, if any.
- the details of directors or key managerial personnel who were appointed or have resigned during the year.
- the names of companies which have become or ceased to be its Subsidiaries, joint ventures or associate companies during the year.
- the details relating to deposits, covered under Chapter V of the Act, -
  - accepted during the year.
  - remained unpaid or unclaimed as at the end of the year.
- 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.
- the details of deposits which are not in compliance with the requirements of Chapter V of the Act.

- the 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.
- the details in respect of adequacy of internal financial controls with reference to the Financial Statements.

☑ The report of the Board of Directors to be attached to the financial statement, in case of a OPC, 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.

Director Responsibility statement

☑ The Directors' Responsibility Statement shall state that—
- in the preparation of the annual accounts, the applicable AS had been followed along with proper explanation relating to material departures.
- 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.
- 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.
- the directors had prepared the annual accounts on a going concern basis. and
- 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.
- 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.

Singing of board report and its annexures

☑ The Board's report and any annexures thereto shall be signed by
- its chairperson of the company if he is authorised by the Board and
- where he is not so authorised, shall be signed by at least 2 directors, one of whom shall be a managing director, or by the director where there is one director.

Circulation of financial statements

☑ A signed copy of every financial statement, including CFS, if any, shall be issued, circulated or published along with a copy each of—
- any notes annexed to or forming part of such financial statement.
- the auditor's report.
- the Board's report.

Punishment

☑ If a company contravenes the provisions of this section

Punishment to company	Punishment to officer in default
Fine: Minimum – ₹50,000; Maximum – ₹25 Lakhs	Imprisonment: 3 Years or Fine: Min. – ₹50,000; Max. – ₹5 Lakh or Both

SECTION-135: CORPORATE SOCIAL RESPONSIBILITY (CSR), ITS RULES AND SCHEDULE-VII

Constitution of committee

☑ Every company having
- net worth of rupees 500 crore or more, or
- turnover of rupees 1000 crore or more or
- a net profit of rupees 5 crore or more during any financial year, shall constitute a CSR Committee of the Board consisting of ≥ 3 directors, out of which at least 1 director shall be an independent director.

Other Points

☑ The Board's report shall disclose the composition of the CSR Committee.

☑ The CSR Committee shall, —

- formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII.
- recommend the amount of expenditure to be incurred on the activities referred to in clause (a). and
- monitor the CSR Policy of the company from time to time.

☑ The Board of every company referred above shall, —

- after taking into account the recommendations made by the CSR Committee, approve the CSR Policy for the company and disclose contents of such Policy in its report and also place it on the company's website. and
- ensure that the activities as are included in CSR Policy of the company are undertaken by the company.

Spending on CSR

☑ The Board of every company shall ensure that the company spends, in every financial year, at least 2%. of the average net profits (calculated as per sec.198) of the company made during the 3 immediately preceding financial years, in pursuance of its CSR Policy.

Example: 3 immediately preceding financial years means, suppose we want to calculate for FY 16-17 then for this 13-14,14-15,15-16 are the 3-immediately preceding financial years.

☑ the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities:

☑ If the company fails to spend such amount, the Board shall, in its report made specify the reasons for not spending the amount.

RULE 2(f) "Net profit" means the net profit of a company but shall not include the following

- any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise. and
- any dividend received from other companies in India, which are covered under and complying with the Provisions of section 135 of the Act:

RULE-4 CSR Activities

- The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.
- The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through
  - a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or
  - a company established under section 8 of the Act or a registered trust or a registered society, established by the CG or SG or any entity established under an Act of Parliament or a State legislature:
- the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of 3 years in undertaking similar programs or projects.
- A company may also collaborate with other companies for moderating projects or programs or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programs in accordance with these rules.
- the CSR projects or programs or activities. undertaken in India only shall amount to CSR expenditure
- The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.
- Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least 3 financial years but such expenditure including expenditure on administrative overheads, ≤ 5%. of total CSR expenditure of the company in 1 financial year.
- events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. would not be qualified as part of CSR expenditure.
- Expenses incurred by companies for the fulfilment of any Act/ Statute of regulations (such as Labour

Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act
- Contribution of any amount directly or indirectly to any political party under section 182 of the Act, shall not be considered as CSR activity.

RULE-5. CSR Committees

The companies mentioned in the rule 3 shall constitute CSR Committee as under. -
- an unlisted public company or a private company covered under sub-section (1) of section 135 which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director.
- a private company having only 2 directors on its Board shall constitute its CSR Committee with 2 such directors:
- with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least 2 persons of which 1 person shall be as specified under Sec.380(1)(d) of the Act and another person shall be nominated by the foreign company.

RULE-7. CSR Expenditure

CSR expenditure shall include all expenditure including contribution to corpus, for projects or programs relating to CSR activities approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of **Schedule VII** of the Act.

SECTION-136: RIGHT OF MEMBER TO COPIES OF AUDITED FINANCIAL STATEMENT

Copy of financial statements

☑ A copy of the financial statements, including CFS, if any, auditor's report and every other document required by law to be annexed or attached to the financial statements, which are to be laid before a company in its general meeting, shall be sent to
- every member of the company,
- to every trustee for the debenture-holder of any debentures issued by the company, and
- to all persons other than such member or trustee, being the person so entitled, not less than 21 days before the date of the meeting. (but for section 8 companies it is 14 days not 21 days)

Listed companies

☑ In the case of a listed company,
- the provisions shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of 21 days before the date of the meeting and a statement containing the salient features of such documents in the **Form AOC-3** or
- copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than 21 days before the date of the meeting unless the shareholders ask for full financial statements.
- a listed company shall also place its financial statements including CFS, if any, and all other documents required to be attached thereto, on its website, which is maintained by or on behalf of the company:

Central government may prescribe

☑ the CG may prescribe in Rule-11 the manner of circulation of financial statements of companies having such net worth and turnover.

RULE-11. Manner of circulation of financial statements in certain cases

In case of all listed companies and such public companies which have a net worth of more than 1 crore rupees and turnover of more than 10 crore rupees, the financial statements may be sent-
- by electronic mode to such members whose shareholding is in dematerialised format and whose email Ids are registered with Depository for communication purposes.
- where Shareholding is held otherwise than by dematerialised format, to such members who have positively consented in writing for receiving by electronic mode. and
- by despatch of physical copies through any recognised mode of delivery as specified under section 20 of the Act, in all other cases.

Companies having subsidiaries

- ☑ every company having a subsidiary or subsidiaries shall, —
  - place separate audited accounts in respect of each of its subsidiary on its website, if any.
  - provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.

MCA General Circular No. 11/2015 dated 21.07.2015: Clarification with regard to circulation and filing of financial statement under relevant provisions of the Companies Act, 2013.

it is clarified that a company holding a general meeting after giving a shorter notice as provided under section 101 of the Act may also circulate financial statements (to be laid/considered in the same general meeting) at such shorter notice.

it is clarified that in case of a foreign subsidiary, which is not required to get its accounts audited as per legal requirements prevalent in the country of its incorporation and which does not get such accounts audited, the holding/parent Indian may place/file such unaudited accounts.to comply with requirements of Section 136(1) and 137(1) as applicable These, however, would need to be translated in English, if the original accounts are not in English Further, the format of accounts of foreign subsidiaries should be, as far as possible, in accordance with requirements under Companies Act, 2013 In case this is not possible, a statement indicating the reasons for deviation may be placed/filed along with such accounts.

EXEMPTION TO NIDHI COMPANIES

In the case of members who do not individually or jointly hold shares of more than 1000 rupees in face value or > 1% of the total paid-up share capital whichever is less, it shall be sufficient compliance with the provisions of the section if a intimation is sent by public notice in newspaper circulated in the district in which the Registered Office of the Nidhi is situated stating the date, time and venue of AGM and the financial statement with its enclosures can be inspected at the registered office of the company, and the financial statement with enclosures are affixed in the Notice Board of the company and a member is entitled to vote either in person or through proxy.

Inspection

- ☑ A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated at its registered office during business hours.

Punishment

- ☑ If any default is made in complying with the provisions of this section,

Punishment to company	Punishment to officer in default
Fine: ₹25,000	Fine: ₹5,000

Qn. Bengaluru Limited is a listed company with a net worth of 95 lakhs and turnover of 11.6 crores as on 31st March, 2016. The company wants to circulate the financial statements in electronic mode. Referring to the provisions of the Companies Act, 2013, advise the company whether it can do so. (CA FINAL NOV-16)

Sol. Reproduce Rule-11 from the section 136.

Conclusion: In the present case, Bengaluru Limited is a listed company, it can circulate the financial statements in electronic mode.

SECTION-137: COPY OF FINANCIAL STATEMENTS TO BE FILED WITH REGISTRAR

File a copy with registrar where AGM held

- ☑ A copy of the financial statements, including CFS, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within 30 days of the date of AGM in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403.

OPC

- ☑ a OPC shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within 180 days from the closure of the financial year.

Subsidiaries financial statements

☑ a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

File a copy of financial statements Where AGM Not held

☑ Where the AGM of a company for any year has not been held, the financial statements along with the documents required to be attached, duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar < 30 days of the last date before which the AGM should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

Punishment

☑ If a company fails to file the copy of the financial statements above, before the expiry of the period specified in section 403,

Punishment to company	Punishment to managing director, CFO of the company, if any, in the absence of the managing director and the CFO, any other director who is charged by the Board, or in the absence of any such director, all the directors of the company
₹1,000 / day, during which the failures continues but maximum ₹10 Lakh	Imprisonment: 6 Months or Fine: Minimum - ₹1 Lakh; Maximum - ₹5 Lakh or Both

RULE-12. Filing of financial statements and fees to be paid thereon. –

- Every company shall file the financial statements with Registrar together with Form AOC-4 and the CFS, if any, with Form AOC-4 CFS.
- The class of companies as may be notified by the Central Government from time to time, shall mandatorily file their financial statement in Extensible Business Reporting Language (XBRL) format and the Central Government may specify the manner of such filing under such notification for such class of companies.

RULE-3 of the companies (Filing of Documents and forms in Extensible Business Reporting Language) Rules 2015 notified following class of companies shall file their financial statement and other documents under this section with the registrar in e-form AOC-4 XBRL given in Annexure II for the financial years commencing ≥ 01.04.2014 using the XBRL taxonomy, namely-

- all companies listed with any Stock Exchange(s) in India and their Indian subsidiaries. or
- all companies having paid up capital of rupees ≥ 5 crore.
- all companies having turnover of rupees ≥ 100 crore. or
- all companies which were hitherto covered under the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011.

Exception: - Provided that the companies in banking, insurance, power sector, NBFC and housing finance companies need not file financial statements under this rule

Qn. In relation to filing of financial statements of a company in XBRL mode and by using the XBRL taxonomy, decide whether the following companies are required to file the financial statements in the said mode:

i) Grand Ltd., the subsidiary company of Tiny Ltd. which is listed at Kolkata Stock Exchange.
ii) Prime Ltd., a company which has paid-up share capital of ₹100 crores.
iii) Crafty Ltd., a company which has a turnover of ₹400 crores.
iv) Comfort Ltd., a non-banking financial company. (CS PROFESSIONAL JUNE.2016)

Sol. Hint - See Rule-3 above.

SECTION-138: INTERNAL AUDIT

☑ Such class or classes of companies as may be prescribed in Rule-13 shall be required to appoint an internal auditor.

☑ The internal auditor shall submit the Audit Report to the Board.

RULE-13. Companies required to appoint internal auditor. -

The following class of companies shall be required to appoint an internal auditor which may be either an **individual** or a **partnership firm** or a **body corporate** namely:

Details of Criteria	every listed company	every unlisted public company	every private company
paid up share capital of ≥ 50 crore rupees during the preceding financial year OR	--	YES	--
turnover of ≥ 200 crore rupees during the preceding financial year OR	--	YES	YES
outstanding loans or borrowings from banks or public financial institutions ≥ 100 crore rupees at any point of time during the preceding financial year OR	--	YES	YES
outstanding deposits of ≥ 25 crore rupees at any point of time during the preceding financial year	--	YES	--

Who can act as Internal Auditor?

- the internal auditor may or may not be an employee of the company.
- a "Chartered Accountant" or a "Cost Accountant", as the case may be, whether engaged in practice or not.

The Audit Committee of the company or the Board shall, in consultation with the Internal Auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit.

PRACTICAL QUESTIONS

1. Guntur Textiles Limited (GTL) is a company in India with a subsidiary company M and subsidiary company S in USA. Decide the liability of GTL with respect to the filing of the financial statements under the Companies Act, 2013. (RTP M-16)

Sol. Under section 129(3) of the Companies Act, 2013, where a company has one or more subsidiaries, it shall, in addition to the financial statements provided under sub-section (2), prepare a consolidated financial statement (CFS) of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2).

Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in FORM AOC-1.

Section 129(2) provides that at every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.

4th proviso to RULE-6 says that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing ≥ 1st April, 2014.

Accordingly, as per the above provisions, CFS is prepared at the holding company level, so GTL (holding company of M & S) is required to prepare in addition to its own financial statements, a CFS of the company and all of the subsidiaries in the same form and manner as that of its own. So, the CFS prepared by GTL will include the financial statement of GTL and of its subsidiary M, but not S in USA.

2. Mr. D, one of a Director in PQR Limited was not satisfied with the performance of its subsidiary company in financial matters. He authorised Mr. F, a financial expert, to inspect the books of accounts of the company on his behalf. Decide, under the provisions of the Companies Act, 2013 whether the said company can refuse to allow Mr. F to inspect the books of accounts of its subsidiary company? (RTP M-16)

Sol. Under section 128(3) of the Companies Act, 2013, the books of account and other books and papers maintained by the company within India shall be open for inspection at the registered office of the company or at such other place in India by any director during business hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as prescribed under Rule 4 of the Companies (Accounts) Rule, 2014.

Inspection at the registered office of the company or at such other place in India by any director during business hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as prescribed under Rule 4 of the Companies (Accounts) Rule, 2014.

In the given case, Mr. D being the director in PQR Limited authorised Mr. F to inspect the books of accounts of its subsidiary company. As per the above provision, the inspection in respect of any subsidiary of the company shall be done only by the person authorized in this behalf by a resolution of the Board of Directors.

Since in the given problem, Mr. F was authorized by the Mr. D at its own without seeking approval of the Board of Directors to inspect the books of accounts of its subsidiary company. So, company can refuse to allow Mr. F to inspect the books of accounts of its subsidiary company.

3. The duly audited balance sheet and profit and loss account of ADJ company Ltd were placed on the agenda of the company's Annual General Meeting for shareholders 'approval. These financial statements were not adopted by the meeting. Explaining the provisions of the Companies Act, 2013, what advice would you render to the Board of Directors of the Company:

i) On the action to be taken by the Board in this Situation.

ii) What would be your answer in case the Annual General Meeting of the company could not be held within the stipulated time as the audited accounts were not ready and the accounts could not be adopted? (MTP F-16) (RTP N-16)

Sol. In accordance with the provisions of the Companies Act, 2013, as contained under section 137(1):

Where the financial statements are not adopted at Annual General Meeting or adjourned Annual General Meeting, such un-adopted financial statements along with the required documents shall be filed with the Registrar within 30 days of the date of Annual General Meeting.

The Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned Annual General Meeting for that purpose.

If the financial statements are adopted in the Adjourned Annual General Meeting, then they shall be filed with the Registrar within 30 days of the date of such adjourned Annual General Meeting with such fees or such additional fees as may be prescribed within the time specified under section 403.

AGM not held: [Section 137(2)] - Where the Annual General Meeting of a company for any year has not been held, the financial statements along with the documents required to be attached, duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the Annual General Meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

Therefore:

i) In the first case the company has to file the unaudited financial statements with reasons thereof in accordance with the above provisions with the registrar.

ii) Even in the second case, if the AGM could not be held for the reasons that the audited accounts were not ready, is no excuse. The financial statements will have to be filed with the registrar, duly signed by the appropriate authorities of the company, and reasons thereof are to be given as stated above.

4. ABC Private Ltd was incorporated on 15-09-2015 in the State of Maharashtra by a group of Professional Engineers without any knowledge about the maintenance of the books of account. The Company has appointed you as the Chief Account Officer at New Delhi where the books of account will be maintained. Advise the management with respect to the following under the Companies Act: - (CMA PTP S-1 J-16)

i) The nature of books to be maintained.

ii) The period for which the accounts have to be preserved, and

iii) The steps to be taken if the books of accounts are to be kept in New Delhi.

Sol. The relevant provisions related to books of accounts as per Section 128 of Companies Act, 2013 are as follows:

(A) The nature of books to be maintained.

- Books of Accounts,
- Other relevant Books and Papers,
- Financial Statements for every Financial Year

(B) The period for which the accounts have to be preserved

- The books of Accounts along with vouchers shall be kept by every company for 8 preceding Financial years.
- The company in existence less than 8 years, shall maintain books in respect of all such preceding years.
- 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.

(C) The steps to be taken if the books of accounts are to be kept in New Delhi. Books can be maintained at any of the following places:

- Registered Office,
- Any other place in India as Board of Directors may decide. In this case, a written notice shall be filed with ROC providing full address of other place, within 7 days of the decision.

Hence to keep books of Accounts in New Delhi the above procedure is to be followed.

5. (a) Explain the law laid down under the Companies Act, 2013 in respect of filing of annual financial statements with Registrar of companies in the following two situations who is liable for the default. (CMA FNL DEC-16)(CA-FINAL MAY-16)

i) Where financial statements of the company are filed with the ROC after 10 months from its due date:

ii) where financial statements are not at all filed by the company with the ROC?

Sol. (i) Under section 403 of the Companies Act, 2013, any document may be filed within 270 days from the date by which it should have been filed under the Act. Any such document be also filed after 270 days on payment of fee and additional fee as may be prescribed, and the company and its officers who are in default shall be liable for the penalty or punishment provided under the Act.

Accordingly, in the present case, the financial statement has been filed after 270 days. Thus, the company may file the same on payment of fee and additional fee after 10 months. The company and its officers may approach ROC for compounding the offence, to avoid any prosecution by ROC for such failure or default.

(ii) Under section 137 (3) of the Companies Act, 2013, if a company fails to file the financial statement, the company and the Managing director and the Chief Financial officer, if any, and in their absence, any other director who is charged by the Board with the responsibility of complying with the extent provisions, and in the absence of any such director, all the directors of the company, shall be punishable.

6. ABC Limited has on its Board, 4 Directors Viz. W, X, Y and Z. In addition, the company has Mr. D as the Managing Director. The company also has a full time Company Secretary, Mr. Wise, on its rolls. The financial statements of the company Balance Sheet and Statement of Profit & Loss and the Board's Report for the year ended 31st March, 2016 were authenticated by 2 of the directors, Mr. X and Y under their signatures. Referring to the provisions of the Companies Act, 2013:

i) Examine the validity of the authentication of the Balance Sheet and Statement of Profit & Loss and the Board's Report.

ii) What would be your answer in case the company is a One Person Company (OPC) and has only one Director, who has authenticated the Balance Sheet and Statement of Profit & Loss and the Board's Report? (CA FINAL NOV-15)

Sol. In accordance with the provisions of the Companies Act, 2013, as contained under section 134(1) & 134(6) (so write these two sub sections full and complete the rest of answer).

i) In the given case, the Balance Sheet and Profit & Loss Account have been signed by Mr. X and Mr. Y, the directors. In view of the provisions of Section 134 (1), the Managing Director Mr. D should be one of the 2 signatories. Since the company has also employed a full time Secretary, he should also sign the Balance Sheet and Profit & Loss Account. Therefore, authentication done by 2 directors is not valid.

ii) In case of OPC, the financial statements should be signed by 1 director and hence, the authentication is in order.

7. DJA Company Limited, incorporated under the provisions of the Companies Act, 2013, has two subsidiaries – AJD Limited and AMR Limited. All the three companies have prepared their financial statements for the year ended 31st March, 2016. Examining the provisions of the Companies Act, 2013, answer the following: (CA-FINAL NOV-15) (RTP M-15)

i) In what manner the subsidiaries – AJD Limited and AMR Limited shall prepare their Balance Sheet and Profit & Loss Account?

ii) What would be your answer in case the DJA Limited – the holding company, is not required to prepare consolidated financial statements under the Indian Accounting Standards?

iii) What shall be your answer in case one of the subsidiary company's financial statements do not comply with the Accounting Standards?

iv) To what extent is the Central Government empowered to exempt a company from preparing the financial statements in compliance with the Indian Accounting Standards?

Sol. In accordance with the provisions of the Companies Act, 2013, as contained under section 129(3) and (4):

i) Where a company has one or more subsidiaries, it shall, in addition to its own financial statements prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own. The consolidated financial statements shall also be laid before the AGM of the company along with the laying of its own financial statement. The company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiaries in Form AOC-1. For the purpose of consolidated financial statements, 'subsidiaries' shall include associate company and joint venture.

ii) According to Companies (Accounts) Rules, 2014, the consolidation of financial statements of the company shall be made in accordance with the provisions of Schedule III to the Act and the applicable accounting standards. However, for a company which is not required to prepare consolidated financial statements under the Accounting Standards, it shall be sufficient if the company complies with provisions of consolidated financial statements provided in Schedule III to the Act. The provisions applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, also apply to the consolidated financial statements.

iii) If the financial statements of a company do not comply with the accounting standards, the company shall disclose in its financial statements the following viz.

- The deviation from the accounting standards,
- The reasons for such deviation, and
- The financial effects, if any, arising out of such deviation.

iv) The Central Government may, on its own or on any 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 this Section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest. Any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

8. The Board of Directors of X company undertakes to make contribution under the discharge of its social responsibilities for promotion of sanitation facilities and to make available clean and safe drinking ganga water in nearby villages. State in the light of the Companies Act, 2013, whether the company can undertake such a responsibility and contribute towards the achievement of such social responsibility? (RTP N-15)

Sol. Section 135 of the Companies Act, 2013 deals with the provisions related to the Corporate Social Responsibility. According to which it is mandatory for every company with specified criteria to spend a prescribed percentage of their profits on certain specified areas of social upliftment in discharge of their social responsibilities. The Companies (CSR Policy) Rules, 2014 provides that the CSR may include:-

i) Projects or programs relating to activities specified in Schedule VII to the Act. or

ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.

Schedule VII to the Companies Act, 2013 had been amended, whereby, contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation and contribution to the Clean Ganga Fund setup by the Central Government for rejuvenation of river Ganga have also been included in the activities which may be included by companies in their Corporate Social Responsibility policies.

Accordingly, in the given case, X company can take such responsibility and contribute for the promotion of sanitation facilities and rejuvenation of river ganga for supply of safe drinking water in nearby villages where it operates.

9. P Limited did not prepare its Balance Sheet and the Profit and Loss Account for the year in conformity with some of the mandatory Accounting Standards issued by the Institute of Chartered Accountants of India. State with reference to the provisions of the Companies Act, 2013, the responsibilities of directors of the company in this regard. (RTP N-15)

Sol. Section 129(1) of the Companies Act, 2013 states that financial statement of the company shall comply with the accounting standards notified under section 133. Further section 129(5) says that where the Financial Statements of the company do not comply with the accounting standards, such companies shall disclose in its financial statements, the following, namely:

- the deviation from the accounting standards.
- the reasons for such deviation. and
- the financial effect, if any, arising due to such deviation.

Also section 129(7) provides that if a company contravenes the provisions of section 129 (which requires compliance with accounting standards), the managing director, whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Moreover, the Board of Directors is also required under section 134(5) of the Companies Act, 2013 to include a Directors Responsibility Statement indicating therein that in the preparation of the financial statements the applicable accounting standards had been followed along with proper explanation relating to material departures, if any. If such person (as above referred) fails to take all reasonable steps to secure compliance by the company, as respects any accounts laid before the company in general meeting, with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts, he shall, be punishable with imprisonment for a term which may extend to 1 year, or with fine not less than ₹50,000 but which may extend to ₹5,00,000 or with both.

10. The Board of Directors of Sunrise Ltd. want to circulate unaudited accounts before the Annual General Meeting of the shareholders of the Company. Examine the validity of the act of the Board of Directors under the provisions of the Companies Act, 2013. (RTP N-15)

Sol. Section 129(2) of the Companies Act, 2013 provides that at every annual general meeting of a company, the Board of Directors of the company shall lay financial statements for the financial year. Further section 134(7) provides that signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of:

- any notes annexed to or forming part of such financial statement.
- the auditor's report. and
- the Board's report.

It, therefore, follows that unaudited accounts cannot be sent to members or unaudited accounts cannot be filed with the Registrar of Companies. So the act of the Board of Directors of sunrise limited is not valid.

11. The Board of Directors of Vishwakarma Electronics Limited consists of Mr. Ramesh, Mr. Suresh (Directors) and Mr. Indersen (Managing Director). The company has also employed a full time Secretary. The financial statements of the company were signed by Mr. Ramesh and Mr. Suresh. Examine whether the authentication of financial statements of the company was in accordance with the provisions of the Companies Act, 2013? (RTP M-15) (CA FINAL NOV.2011) OR

The Board of Directors of Vidhyut Nigam Limited consists of Mr. X, Mr. Y and Mr. Z. Mr. X and Mr. Y are Directors and Mr. Z is Managing Director in the Board. The company has also employed Mr. F as the Chief Financial Officer. The Profit and Loss Account and Balance Sheet of the company were signed by Mr. X and Mr. Y. Examine whether the authentication of financial statements of the company was in accordance with the provisions of the Companies Act, 2013? (CA MTP AUG-16)

Sol. Under section 134(1) of the Companies Act, 2013 the financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by at least:

- The chairperson of the company where he is authorised by the Board. or
- 2 directors out of which 1 shall be managing director and
- The Chief Executive Officer, if he is a director in the company,
- The Chief Financial Officer and the company secretary of the company, wherever they are