

Company Auditor Series – Version 2.0

Chapter 6 – Penalties on Auditors



CA. PRAMOD JAIN
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Namaste

In Chapter 6 of this version 2.0 series (the concluding part), we would know about the penalties on auditors as per the Companies Act 2013.

Penalties on Auditor under Companies Act 2013

An auditor of a company can be levied penalty or fine based on certain specified non-compliances under the Companies Act, 2013. The existing Penal Provisions are tabulated in a chart below.

S. No.	Provision	Non-Compliance	Penalty / Fine (Amount in Rs.)		
			Nature	Minimum	Maximum
1	140(3)	Non-Filing of Resignation Letter with Company and Registrar in ADT 3 within 30 days from resigning.	Penalty	50000/- or audit fee whichever is less Rs. 500/- per day for Continuing default	2 lacs
2	140(5)	Acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers.	Tribunal may direct the company to change the auditor	In case final order is passed by Tribunal he shall not be eligible to be appointed as auditor of any company for 5 years and also be liable for action under section 447. In case of a firm, the liability shall be of firm and of every partner(s) who acted in a fraudulent manner or abetted or colluded in any fraud	In case final order is passed by Tribunal he shall not be eligible to be appointed as auditor of any company for 5 years and also be liable for action under section 447. In case of a firm, the liability shall be of firm and of every partner(s) who acted in a fraudulent manner or abetted or colluded in any fraud
3	143(15)	Non - compliance of provisions of 143(12) Non-Reporting of fraud by officers or employees of company on the	Penalty	Listed Company – 5 Lacs Other Company 1 Lac	Listed Company – 5 Lacs Other Company 1 Lac

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S. No.	Provision	Non-Compliance	Penalty / Fine (Amount in Rs.)		
			Nature	Minimum	Maximum
		company to CG in Form ADT 4 in the course of his audit. The Companies (Amendment) Act, 2015 has substituted section 143(12) to prescribe limit of Rs. 1 Crore beyond which reporting is to be made to Central Government. Below the prescribed limit of Rs. 1 Crore the reporting is to be made to the Board/Audit Committee.			
4	147(2)	Contravention of section 139 – Appointment of auditor against provisions of s. 139	Fine	25000	5 lacs or 4 times the audit remuneration whichever is less)
5	147(2)	Contravention of s. 144 – <ul style="list-style-type: none"> • Providing services which are prohibited to be provided by an auditors • Providing services not approved by Board of Directors or Audit Committee 	Fine	25000	5 lacs or 4 times the audit remuneration whichever is less
6	147(2)	Contravention of s. 145 – Not signing the auditor report	Fine	25000	5 lacs or 4 times the audit remuneration whichever is less

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S. No.	Provision	Non-Compliance	Penalty / Fine (Amount in Rs.)		
			Nature	Minimum	Maximum
7	Proviso to 147(2)	Knowingly or wilfully contravenes provisions of s. 139, 144 or 145 with the intention to deceive the: <ul style="list-style-type: none"> • company or • its shareholders or • creditors or • tax authorities 	Imprisonment and Fine	Imprisonment Upto 1 yr Fine - 50000/-	Imprisonment - 1 yr Fine - 25 lacs or 8 times the audit fee whichever is less
8	147(3)	Auditor is convicted under section 147(2)	Class Suit Action	<ul style="list-style-type: none"> • refund the remuneration received by him; and • pay for damages to the company, statutory bodies or authorities or to members or creditors of company for loss arising out of incorrect or misleading statements of particulars made in his audit report. 	<ul style="list-style-type: none"> • refund the remuneration received by him; and • pay for damages to the company, statutory bodies or authorities or to members or creditors of company for loss arising out of incorrect or misleading statements of particulars made in his audit report.
9	147(5)	Partner(s) of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers,	Extent of liability	Joint and several civil liability of the partner or partners concerned of the audit firm and of the firm. Criminal Liability restricted to the partner who acted.	Joint and several civil liability of the partner or partners concerned of the audit firm and of the firm. Criminal Liability restricted to the partner who acted.

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S. No.	Provision	Non-Compliance	Penalty / Fine (Amount in Rs.)		
			Nature	Minimum	Maximum
		the liability			
10	245(2)	Misleading statements in audit report resulting in loss to depositors or members	Class Action Suit	Damages as sought by depositors or members on firm as well as partner who was involved in making any improper or misleading statement in audit report or who acted in a fraudulent, unlawful or wrongful manner	Damages as sought by depositors or members on firm as well as partner who was involved in making any improper or misleading statement in audit report or who acted in a fraudulent, unlawful or wrongful manner
11	132 (4) (c)	Penalties by National Financial Reporting Authority (NFRA) if professional or other misconduct proved	Penalty	<ul style="list-style-type: none"> • If auditor is individual – 1 Lac • If auditor is firm – 5 Lacs 	<ul style="list-style-type: none"> • If auditor is individual – 5 times of fee received • If auditor is firm – 10 times of fee received
12	132 (4) (c)	Debarment by National Financial Reporting Authority (NFRA) if professional or other misconduct proved	Debarring the member or the firm to being appointed as an auditor or internal auditor or undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body	6 Months	10 Years

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S. No.	Provision	Non-Compliance	Penalty / Fine (Amount in Rs.)		
			Nature	Minimum	Maximum
			corporate; or performing any valuation as provided under section 247		
13	448	Punishment for false statement, or omission of any material fact in audit report	Punishment - Liable for action u/s 447 (Fraud)	Imprisonment – 6 months, however in case co. has public interest – 3 years and Fine - not less than amount involved in fraud If amount involved in fraud is less than 10 Lacs or 1% or turnover and does not involve public interest - Nil	Imprisonment – 10 years and Fine - three times the amount involved in fraud. If amount involved in fraud is less than 10 Lacs or 1% or turnover and does not involve public interest - Imprisonment 5 years or fine 50 Lacs or both
14	36	Any person who, either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, or deliberately conceals any material facts, to induce another person to enter into any agreement for,	Punishment - Liable for action u/s 447 (Fraud)	Imprisonment – 6 months, however in case co. has public interest – 3 years and Fine - not less than amount involved in fraud. If amount involved in fraud is less than 10 Lacs or 1% or turnover and does not involve public	Imprisonment – 10 years and Fine - three times the amount involved in fraud. If amount involved in fraud is less than 10 Lacs or 1% or turnover and does not involve public

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S. No.	Provision	Non-Compliance	Penalty / Fine (Amount in Rs.)		
			Nature	Minimum	Maximum
		or with a view to obtaining credit facilities from any bank or financial institution.		interest- Nil	interest - Imprisonment 5 years or fine 25 Lacs or both

Punishment on Auditor under the Chartered Accountants Act 1949

An auditor of a company can be levied a fine or be removed from the Register of members / firms or be reprimanded based on certain specified non-compliances of Schedule I and/or Schedule II of the Chartered Accountants Act, 1949. The punishment provisions are tabulated in a chart below.

S. No.	Provision of CA Act	Held	Punishment		
			Nature	Minimum	Maximum
1	21A (5) by Board of Discipline	Guilty of professional or other misconduct of Schedule I	Reprimand	Nil	Nil
			Remove the name from register of members	1 day	6 months
			Fine	Re. 1/-	Rs. 2 Lakhs
2	21A (6) by Board of Discipline	Partner or owner of firm repeatedly found guilty of misconduct of Schedule I during last 5 years	Prohibit Firm from undertaking any activity related to Chartered Accountancy	1 day	1 year
			Fine	Re. 1/-	Rs. 25 Lakhs
3	21B (5) by Disciplinary Committee	Guilty of professional or other misconduct of Schedule II or of both Schedule I & II	Reprimand	Nil	Nil
			Remove the name from register of members	1 day	Permanently
			Fine	Re. 1/-	Rs. 10 Lakhs
4	21B (6) by	Partner or owner of firm repeatedly found guilty of professional	Prohibit Firm from undertaking any activity related to	1 day	2 years

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S. No.	Provision of CA Act	Held	Punishment		
			Nature	Minimum	Maximum
	Disciplinary Committee	or other misconduct of Schedule II or of both Schedule I & II during last 5 years	Chartered Accountancy		
			Suspend or cancel registration of firm or remove its name from register of members	1 day	Permanently
			Fine	Re. 1/-	Rs. 50 Lakhs

This is the last chapter in this series. I hope not only this document but the whole series has been of use to you. I thank CA. Shreya Jain, Ms. Sakshi and Ms. Riya in assisting me to update this chapter of the series. Your suggestions and comments would be highly appreciated.

Best Regards

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8th May 2024

EARLIER CHAPTERS		
Chapter No.	Title	Link
1	Types of Audits	https://lunawat.com/Uploaded_Files/Attachments/F_18291.pdf
2	Qualifications & Disqualifications	https://lunawat.com/Uploaded_Files/Attachments/F_18293.pdf
3	Appointment of Auditor	https://lunawat.com/Uploaded_Files/Attachments/F_18299.pdf
4	Power & Duties of Auditors	https://lunawat.com/Uploaded_Files/Attachments/F_18301.pdf
5	Removal & Resignation of Auditors	https://lunawat.com/Uploaded_Files/Attachments/F_18303.pdf

(Disclaimer: Though full efforts have been made to state the interpretations correctly, yet the author is not responsible / liable for any loss or damage caused to anyone due to any mistake / error / omissions)

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ABOUT CA. PRAMOD JAIN

He is a commerce graduate [B. Com (H)] from Shri Ram College of Commerce (SRCC). He is a fellow member of the Institute of Chartered Accountants of India (FCA). He is a fellow member of the Institute of Companies Secretaries of India (FCS). He is a fellow member of the Institute of Cost Accountants of India (FCMA). He is a Bachelor of Law (LL. B). He is qualified as an Information System Auditor [DISA (ICAI)]. He is also a member of All India Management Association (MIMA). He is also an Insolvency Professional (IP). He has also passed the Certificate Course on CSR of ICAI. He has also passed the Proficiency Self-Assessment Test for Independent Director's Databank. He has passed certification course NCFM of National Stock Exchange of India (NSE). He has also done certification course CAAT and post qualification certificate course on Valuation of ICAI.

He is elected as Central Council Member of ICAI for 2 consecutive terms from 2019 to 2025. Apart from being member in more than 25 committees / groups / directorates of ICAI, and other Bodies he is / was:

- Chairman of Accounting Standards Board (ASB) of ICAI for 3 years from 2022 to 2025
- Deputy Convenor of Centre for Audit Quality Directorate (CAQD) for 2024-25
- Convenor - Members & Students (Grievances Handling & e-Sahayata) Directorate for 2023-24
- Chairman of Accounting & Finance Services Sectional Committee SSD-12 under the Services Sector Division Council (SSDC) of Bureau of Indian Standards (BIS) for 2023-24
- Chairman of Expert Advisory Committee (EAC) of ICAI for Year 2022-23
- Co-Chairman of Corporate Affairs Committee of PHDCCI for the year 2022-23
- Chairman of Committee on International Taxation (CITAX) of ICAI for 2021-22
- Chairman of Taxation Audit Quality Review Board (TAQRB) of ICAI for the year 2021-22.
- Member of Quality Review Board (QRB) for 2 terms from 2020 to 2026.
- Member of the SME Implementation Group (SMEIG) of IFRS Foundation, UK for 3 years from 2023 to 2026.
- Chairman of Valuation Standards Board (VSB) of ICAI for the year 2020-21.
- Chairman of CSR Committee of ICAI for year 2020-21.
- Vice-Chairman of Committee on MSME & Start-up of ICAI for the year 2021-22.
- Vice-Chairman of Women Members Empowerment Committee (WMEC) of ICAI for 2021-22.
- Vice-Chairman of Direct Tax Committee (DTC) of ICAI for 2 years from 2019 to 2021.
- Vice-Chairman of Committee on International Taxation (CITAX) of ICAI for Year 2019-20.
- Member of ICAI Disciplinary Committee for the year 2020-21.

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He is the conceptualizer of the portal www.expertspanel.in which is a one stop solution for all professional queries which has given more than 36000 answers since its launch in mid of year 2018.

He has delivered more than 1700 lectures and articles on various topics of Income Tax, Corporate Laws, LLP, Audits, Peer Review, Quality Review, etc. at more than 200 forums throughout the country. Most of his presentations and articles since 2013 are available for free download from www.lunawat.com and from 2018 at www.expertspanel.in also.

He is Senior Partner of M/s LUNAWAT & CO., Chartered Accountants. He is president, founder convener and member of various Boards, Directorate, Committees, Study Circles, etc. of ICAI, ICSI and other prestigious bodies and associations. He has been a Technical Reviewer with Financial Reporting Review Board (FRRB) and Quality Review Board (QRB) and Peer Reviewer with Peer Review Board (PRB).

He has authored books on “Chartered Accountant’s Documentation and Compliance for Audits and Reviews”, *Limited liability Partnership – A Complete Resource Book*, “Chartered Accountant’s Documentation and Compliance for Audits and Reviews”, “Importance of LLP after Companies Act, 2013”, “Chartered Accountant’s Documentation and compliance under Companies Act 2013, Peer Review and Quality Review”, “Limited Liability Partnership – Law, Procedures and Taxation”, “Documentation for Chartered Accountants”, “Limited Liability Partnership – Law and Procedures with Ready Reckoner”, “Fringe Benefit Tax & Banking Cash Transaction Tax”, “Documentation for Audits” and “Accounting Standards and CARO”.

He has written various articles on taxation, company law and audit in various journals. He has vast practical experience in income tax, audit, corporate laws and LLP.