

AN ANALYSIS OF THE COMPANIES ACT 2013 and Ind AS

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ABSTRACT

Companies Act 2013 is associate Act of the Parliament of India that regulates incorporation of a corporation, responsibilities of a corporation, directors, and dissolution of a corporation. The 2013 Act is split into twenty nine chapters containing 470 sections as against 658 Sections within the Companies Act, 1956 and has seven schedules. The Act has replaced the businesses Act, 1956 (in a partial manner) when receiving the assent of the President of India on August 29, 2013. The Act came into force on September 12, 2013 with few changes like earlier personal companies most range of member was fifty and currently it'll be two hundred. A brand new term of "one person company" is enclosed during this act that may be a personal company and with solely ninety eight provisions of the Act notified. This paper focused on the new act enclosed in company Act 2013 and comparison of each of the acts.

KEYWORDS: *Companies Act (Accounts and Audit), Financial Statement, Company Law, Ind AS.*

Introduction

The Ministry of Company Affairs thenceforth planned a draft notification for exempting personal companies from the extent of varied sections below the Company Act. On Feb 27, 2014, the MCA declared that Section a hundred thirty five of the Act that deals with company social responsibility can get impact from 1 April 2014. On twenty six March 26, 2014, the MCA declared that another 83 sections are going to be notified from 1 April 2014.

New Concepts

- One Person Companies (OPC)
- Women Directors
- Corporate Social Responsibility
- Registered Valuers
- Rotation of Auditors
- Class Action Suits
- Dormant Company
- Fast Track Mergers
- Serious Fraud Investigation Office

Main Objectives of Act

- To promote the event of the economy by encouraging entrepreneurship and enterprise potency and making flexibility and ease within the formation and maintenance of companies.

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- To encourage transparency, answerability and high standards of corporate governance;
- To acknowledge varied new ideas and procedures facilitating simple doing business whereas protective interests of all the stakeholders;
- To enforce stricter action against fraud and gross non-compliance with company law provisions
- To originated institutional structure within the sort of varied authorities, bodies and panels similarly as by together with recognition of varied roles for professionals and different experts; and
- To cater to the necessity for simpler and time certain approvals and compliance necessities relevant within the gift context

Objectives of the Study

- To understand Company Act 2013
- To compare old act with new company act 2013
- To know main description of new concepts
- To understand the framework of the Ins AS

Brief Description of New Concepts

- One Person Company could be a company with only 1 person as a member, that one person is the investor of the corporate. It avails all the advantages of a personal Like separate legal entity, protective personal assets from business liability, and perpetual succession. One Person Company (OPC) could be a Company registered with only one person its investor.
- Women Director: each Listed Company /Public Company with paid up capital of Rs one hundred Crores or additional /Public Company with turnover of Rs three hundred Crores or additional shall have a minimum of one Woman Director.
- Corporate Social Responsibility Clause (135) each company having internet price of rupees 5 hundred large integer or additional, or turnover of rupees one thousand large integer or additional or a lucre of rupees 5 large integer or additional throughout any yr shall represent a company Social Responsibility Committee of the Board consisting of 3 or additional administrators, out of that a minimum of one director shall be AN freelance director.
- Registered Values-Valuation by registered values- Clause (247) (1) wherever a valuation is needed to be created in respect of any property, stocks, shares, debentures, securities or goodwill or the other assets (herein mentioned because the assets) or internet price of an organization or its liabilities underneath the supply of this Act, it shall be valued by someone having such qualifications and skill and registered as a valuator in such manner, on such terms and conditions as could also be prescribed and appointed by the audit committee or in its absence by the Board of administrators of that company
- Class action suits (clause 245) For the primary time, a provision has been created for sophistication action suits. it's providing nominative range of member(s), depositor(s) or any category of them, may, they're of the opinion that the management or management of the affairs of the corporate are being conducted in a very manner harmful to the interests of the corporate or its members or depositors, file AN application before the assembly on behalf of the members or depositors. wherever the members or depositors get any damages or compensation or demand the other appropriate action from or against an audit firm, the liability shall be of the firm likewise as of every partner WHO was concerned in creating any improper or dishonourable statement of particulars within the audit report or WHO acted in a very fallacious, unlawful or wrongful manner. The order gone along the assembly shall be binding on the corporate and everyone its members, depositors and auditors together with audit firm or professional or authority or consultant or the other person related to the corporate.
- Dormant Company - wherever an organization is made and registered underneath this Act for a future project or to carry an plus or holding and has no important accounting group action, such an organization or AN inactive company could build AN application to the Registrar for getting the standing of a dormant company.

- Serious Fraud Investigation workplace (clause 211) statutory standing to SFIO has been planned. Investigation report of SFIO filed with the Court for framing of charges shall be treated as a report filed by a lawman. SFIO shall have power to arrest in respect of bound offences of the Bill which are a magnet for the penalisation for fraud. Those offences shall be cognisable and therefore the person suspect of any such offence shall be discharged on bail subject to bound conditions provided within the relevant clause of the Bill.
- Fast Track Merger: the businesses Act, 2013 has separate provisions of means merger underneath Section 233 of corporations Act, 2013. These provisions are so with the traditional provisions of merger underneath Section 230 and 232 of this Act. Underneath means merger processes Central Government has the facility to sanction all such theme and there'll be no demand to approach National Company Law assembly (powers presently exercised by the High Court).

Relationship of Accounting in Light of Companies Act 2013

- **Books of Accounts to be kept by Company (Section 128)**

Books of accounts to be unbroken by Company (Section 128) the books of accounts showing true and truthful monetary statements and relevant papers shall be unbroken at the registered address of the corporate. The books shall be unbroken on accounting and according clerking system of accounting. The books of accounts and relevant papers could also be unbroken at different place in India as Board of administrators could decide. A seven days' notice shall lean to mythical creature for communication of latest address. The accounts are often unbroken in electronic mode. The books of accounts associated with branch office are often unbroken at the branch but correct summarised returns shall be sent to registered office sporadically. The books of accounts shall be open for director's scrutiny at registered office or different place throughout business hours. The copies of economic information maintained outside India shall be made for scrutiny. The scrutiny of subsidiary are often done solely when authorization from human body. The books of accounts of the corporate shall be unbroken in sensible order for a amount of eight FYs and just in case investigations ordered by Central Government it's going to direct a extended amount. Managing director, Whole time director accountable of finance, Chief money dealer and such different person charged by the human body with compliance of this section, contravenes the provisions shall be punishable with imprisonment for optimum one year or with fine (Rs. 50,000 to Rs. 5,00,000).

- **Financial Statements (Section 129)**

The financial statement:

- Shall be prepared in Schedule III format,
- Shall comply with the accounting standards as per section 133 and
- Shall give a true and fair view of the state of affairs of the company
- Shall be laid before AGM by BOD along with the consolidated financials (prepared on the basis of same principles of standalone) in case of subsidiary, associate and JV.
- If do not comply with accounting standards, shall disclose the deviation, reasons and monetary impact

Contravention of the provisions of this section; MD, WTD accountable of finance, CFO and BOD with compliance of this section and within the absence of any such officers all the administrators shall be punishable with imprisonment for optimum one year or with fine (Rs. 50,000 to Rs. 5,00,000).

- **Reopening of Accounts on Court's or Tribunal's Orders (Section 130)**

Reopening of accounts on court's or Tribunal's orders (Section 130) Application created by Central Government, taxation authority, SEBI, the other restrictive body, authority or any individual involved associated an order created by a court or the assembly stating that the accounts were ready in dishonourable manner and therefore the affairs of the corporate were mismanaged throughout the relevant amount casting irresponsibility of economic statements., then a corporation will re-open and recast its monetary statements. Court or assembly shall offer the notice to the desired authorities and therefore the representations created by somebody shall be thought of before passing the order. The accounts revised or recast shall be final.

- **Voluntary Revision of Financial Statements or Board's Report (Section 131)**

If it seems to the administrators of a corporation that the monetary statements of the corporate or the board's report don't adjust to the provisions of Section 129 or section 134, monetary statements or the board reports for the three preceding monetary years could also be revised. For this purpose company shall create associate application to assembly associated assembly can pass an order. The order shall be filed with mythical creature by the corporate. Assembly shall offer notice to Central Government authorities and therefore the representations shall be thought of before passing associate order by assembly. Revised financials and report are often filed once in an exceedingly yr. Details of reasons for revision shall be declared. If the previous financials and board report copies are already sent to the members or mythical creature or ordered in AGM the revision should be confined to the correction and important alterations.

- **Constitution of National Financial Reporting Authority (Section 132)**

Central Government may constitute NFRA.

NFRA shall:

- make recommendation to Central Government on formulation and egg layingdown of accounting and auditing policies and standards for adoption by companies or category of companies or their auditors
- monitor and enforce compliance with accounting and auditing standards
- oversee the standard of service of the professionals related to making certain compliance with the standards

NFRA shall consist one president having experience within the field of business, auditing, finance or law appointed by Central Government and alternative members most fifteen. Conflict of interest and lack of independence in respect of appointment shall be declared by the member. President and member's full time employment shall not be related to any audit firm (including practice companies) throughout the course of their appointment when ceasing their appointment.

Powers of NFRA are:

- To investigate skilled or alternative misconduct done by member or firm of CAs. No alternative body or institute will investigate constant matter. NFRA shall have exclusive jurisdiction.
- Have constant powers as square measure unconditional during a civil court underneath the Code of Civil Procedures, 1908 whereas attempting a suit
- To impose penalty (Individual – Rs. one Lacs to five times of fees received corporations – Rs. ten Lacs to ten times of fees received) or debar member or firm for an amount of six months to ten years, if skilled or alternative misconduct is proved .

Any person aggrieved by any order of NFRA could like charm before legal proceeding authority as prescribed.

Main Challenges of the Convergence Process of Ind AS

- A move from rule-based approach to principle-based approach
- A framework based approach meant more use of judgment
- Challenge of skilling
- Costs of conversion – training, a/c systems, advisory, compliance & disclosure

Ind AS and its Implication

The Ministry of Corporate Affairs (MCA) notified the Companies (Indian Accounting Standards) Rules, 2015 on 16 February 2015.

- **Phase I – Companies**

Companies other than

1. Banks, 2. NBFCs and 3. Insurance

1st April 2015 or thereafter (with Comparatives): Voluntary Basis for any company and its holding, subsidiary, JV or associate company

1st April 2016: Mandatory Basis

S. No.	Date	Financial Year	Listed	Unlisted
1	01.04.2016	2016-17	Net worth >_ INR 500 crores (Net worth 500 crores or more)	Net worth> _INR 500 crores (Net worth 500 crores or more)
Parent, Subsidiary, Associate and J. V of Above w.e.f. 01.04.2016				
2	01.04.2017	2017-18	All Listed Companies	Net Worth 250 crores or more but less 500 crores
Parent, Subsidiary, Associate and J. V of Above w.e.f. 01.04.2017				

- **Phase II – Companies**

Non-Banking Financial Companies (NBFC's)

S. No.	Date	Financial Year	Listed	Unlisted
1	01.04.2018	2016-17	Net worth >_ INR 500 crores (Net worth 500 crores or more)	Net worth> _INR 500 crores (Net worth 500 crores or more)
Holding, Subsidiary, JV and Associate companies of above NBFC other than those already covered under corporate roadmap shall also apply from said date				
2	01.04.2019	2017-18	Net Worth of Less than 500 Crores	Net Worth 250 crores or more but less 500 crores
Holding, Subsidiary, JV and Associate companies of above NBFC other than those already covered under corporate roadmap shall also apply from said date				

Conclusion

In conclusion, we can say that with the passage of time corporate sector can't be run its business in a vacuum it has to establish coordination with the society and for that, there is the need to the enactment of corporate laws. There is no doubt that with the introduction of a very comprehensive Companies Act, 2013 is a milestone but the concern is about its implementation. Companies Act, 2013 overcomes some of the major loopholes of Companies Act, 1956 but there might be some loopholes with companies Act 2013 which also to plugged as well. Ind AS was a structure of AS towards the IFRS, the accounting standard which was improved from Indian Accounting Standards and was close to the International Financial Reporting Standards.

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