

# Company Auditor Series

## Chap. 6 – Penalties on Auditors



**CA. PRAMOD JAIN**

B. COM (H), FCA, FCS, FCMA, LL.B, DISA, MIMA, IP

**Namaste**

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

### Penalties on Auditor

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"> <li>• Providing services which are prohibited to be provided by an auditors</li> <li>• Providing services not approved by Board of Directors or Audit Committee</li> </ul>	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"> <li>• company or</li> <li>• its shareholders or</li> <li>• creditors or</li> <li>• tax authorities</li> </ul>	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"> <li>• refund the remuneration received by him; and</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• refund the remuneration received by him; and</li> <li>• 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.</li> </ul>
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"> <li>• If auditor is individual – 1 Lac</li> <li>• If auditor is firm – 5 Lacs</li> </ul>	<ul style="list-style-type: none"> <li>• If auditor is individual – 5 times of fee received</li> <li>• If auditor is firm – 10 times of fee received</li> </ul>
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

This is the last chapter in this series. I hope not only this document but the whole series is of use to you. I thank *CA. Shreya Jain* and *CA. Himani Gupta* in assisting me to compile various parts of the series. Your suggestions and comments would be highly appreciated.

Best Regards

**CA. Pramod Jain**

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### EARLIER CHAPTERS

Chapter No.	Title	Link
1	Types of Audits	<a href="#">F_6984.pdf (lunawat.com)</a>
2	Qualifications & Disqualifications	<a href="#">F_8999.pdf (lunawat.com)</a>
3	Appointment of Auditor	<a href="#">F_10007.pdf (lunawat.com)</a>
4	Power & Duties of Auditors	<a href="#">F_11027.pdf (lunawat.com)</a>
5	Removal & Resignation of Auditors	<a href="#">Company Auditor Series 5 - Removal &amp; Resignation of Auditors (lunawat.com)</a>

**(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 has qualified 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 of ICAI. He has also done post qualification certificate course on Valuation of ICAI.

He has been elected as Central Council Member of ICAI for the period 2019 – 2022. Apart from being member in more than 25 committees / groups / directorates of ICAI, he is / was:

- Chairman of Committee on International Taxation (CITAX) for Year 2021-22
- Chairman of Taxation Audit Quality Review Board (TAQRB) for the year 2021-22.
- Chairman of Valuation Standards Board (VSB) for the year 2020-21.
- Chairman of CSR Committee of ICAI for year 2020-21.
- Vice-Chairman of Committee on MSME & Start-up for the year 2021-22.
- Vice-Chairman of Women Members Empowerment Committee (WMEC) for 2021-22.
- Vice-Chairman of Direct Tax Committee (DTC) for year 2019-20 and 2020-21.
- Vice-Chairman of Committee on International Taxation (CITAX) for Year 2019-20.
- Member of ICAI Disciplinary Committee Bench 1 for year 2020-21.
- Nominated as Member of Quality Review Board (QRB) for 3 years from 2020 to 2022.

He is the conceptualizer of the portal [www.expertspanel.in](http://www.expertspanel.in) which is a one stop solution for all professional queries which has given more than 30000 answers since its launch in mid of year 2018.

He is delivered more than 1400 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](http://www.lunawat.com) and from 2018 at [www.expertspanel.in](http://www.expertspanel.in) also.

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 FFRB and Quality Review Board and Peer Reviewer with Peer Review Board. He has authored 13 books including *“Chartered Accountant's Documentation and Compliance for Audits and Reviews”*, *Limited liability Partnership – A Complete Resource Book*, and *“Accounting Standards and CARO”*.