

Announcement

Regarding Clarification on Applicability of Rotation principles on a company as per Section 139 of the Companies Act 2013 where the company ceases to fall under the ambit of Rotation principles in subsequent years.

This is regarding the applicability of Rotation principles on a company as per Section 139 of the Companies Act 2013 where the company ceases to fall under the ambit of Rotation principles in subsequent years.

Provisions of the Companies Act 203 and Rules thereon

Section 139 (2) of the Companies Act 2013 provides that no listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—

- (a) an individual as auditor for more than one term of five consecutive years; and
- (b) an audit firm as auditor for more than two terms of five consecutive years:

Further as per the "Companies (Audit and Auditors) Rules, 2014, for the purposes of subsection (2) of section 139, the class of companies shall mean the following classes of companies excluding one person companies and small companies:-

- (a) all unlisted public companies having paid up share capital of rupees ten crore or more;
- (b) all private limited companies having paid up share capital of rupees fifty crore or more;
- (c) all companies having paid up share capital of below threshold limit mentioned in (a) and (b) above, but having public borrowings from financial institutions, banks or public deposits of rupees fifty crores or more.

Issue

"A Chartered Accountant/ firm, an auditor in a company on which Rules relating to Rotation of auditors were applicable, retired in the year 2017 and a new auditor appointed in the same year. After amendment was brought as per Companies (Amendment) Act 2017, the company do not meet principles of rotation of auditors in the year 2018.

Whether the auditor who was an auditor of the company in the year 2017 can be reappointed by the company as the company ceases to fall under the criteria of rotation of auditors?"

View

The Corporate Laws & Corporate Governance Committee at its 43rd meeting held on 7th January, 2019 discussed the issue and was of the view that since the requirement of rotation of auditors is not applicable on the company subsequently, therefore the auditor who was the auditor in the company earlier in the year 2017 can be reappointed without prejudice to the other provisions of the Companies Act 2013.

In other words, once a company ceases to fall under the ambit of Rotation principles, the company can appoint any chartered accountant/ firm as an auditor of the company irrespective of the fact that the same chartered accountant/ firm was an auditor of the company in previous years.

With Regards

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