AUDIT UNDER SECTION 143(11) V/s SOCIAL AUDIT

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ABSTRACT

The present article aims to examine whether the audit under section 143 (11) of Companies Act, 2013 is kind of social audit or not. For this purpose the provisions of audit under this section have been discussed and analyzed in detail. The object and the purpose of social audit have also been explained in this article thoroughly. There are some provisions of this section under which an auditor is expected to make proprietary audit of some business transactions, by this way the audit conducted under this section is called as social audit. But the detailed analysis and discussion of the purposes and objectives of social audit present a different view in this respect. Hence, an attempt has been made in this article to draw some concrete conclusion.

Key Words : Audit under section 143 (11) of Companies Act, 2013 and audit under CARO-2015 have the same meaning.

INTRODUCTION

Section 143 (11) of Companies Act, 2013 provides that the Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor's report shall also include a statement on such matters as may be specified therein.

BACKGROUND

The section 143 (11) of the Companies Act, 2013 is corresponding to section 227 (4-A) of the Companies Act, 1956 under which initially the Central Government passed an order- "Manufacturing and Other Companies (Auditor's Report) Order, 1975 **(MAOCARO-1975)**". According to this order the auditor of the companies listed in this order had to mention in his report some specific points in addition to normal report. This notification was became applicable from 1st January, 1976 and was enforceable for the audit report related to accounting period ending after 31st December, 1975.

The Central Government again issued an order 'Manufacturing and Other Companies (Auditor's Report) Order, 1988', in place of aforesaid order of 1975, vide notification No. GSR 909(E) dated 7th September, 1988. It became effective from 1st November, 1988 and was applicable for the audit report related to accounting period ended after 31st October, 1988. The objective of passing this order was to make the order of 1975 more logical.

Again in 2003 another order 'The Companies (Auditor's Report) Order 2003' was passed vide notification No. GSR 480 (E) dated 12th June, 2003, which was called as **'CARO-2003'**. Before passing the order of 2003 it was found that some of the points narrated in the order of 1988 were not significant. Hence to make CARO-2003 more effective some new points were included in this order. This order was deemed effective *w.e.f.* 1st July, 2003.

After that, again in 2015 the **CARO-2003** was replaced with new order, The Companies (Auditor's Report) Order, 2015 **(CARO-2015)**, vide notification No. SO 99 (E) dated 10th April, 2015. Hence, at present **CARO-2015** is in force *w.e.f.* 10th April, 2015 and is applicable for the audit report related to accounting period starts on 1st April, 2014 or after that date.

PROVISIONS OF CARO-2015:

1. This order shall apply to every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) [hereinafter referred to as the Companies Act], except-
   (i) A banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
   (ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);
   (iii) a company licensed to operate under section 8 of the Companies Act;
   (iv) One Person Company as defined under clause (62) of section 2 of the Companies Act and a small company as defined under clause (85) of section 2 of the Companies Act; and
   (v) A private limited company with a paid up capital and reserves not more than rupees fifty lakh and which does not have loan outstanding exceeding rupees twenty five lakh from any bank or financial institution and does not have a turnover exceeding rupees five crore at any point of time during the financial year.

2. As mentioned under the law, auditors' reports should include cases in stanza 3 and 4. This specifies every report which is prepared in Section 143 of Companies Act. This is applicable to every company's auditors duties, specified in financial year starting from or after April 1, 2014.

3. The matters which can be included in the auditors' report can be:

(i) (a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets;

(b) whether these fixed assets have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;

(ii) (a) Whether physical verification of inventory has been conducted at reasonable\ intervals by the management;

(b) Are the procedures of physical verification of inventory followed by the management reasonable and adequate in relation to the size of the company and the nature of its business. If not, the inadequacies in such procedures should be reported;

(c) Whether the company is maintaining proper records of inventory and whether any material discrepancies were noticed on physical verification and if so, whether the same have been properly dealt with in the books of account;

(iii) whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered in the register maintained under section 189 of the Companies Act. If so,

(a) whether receipt of the principal amount and interest are also regular; and

(b) if overdue amount is more than rupees one lakh, whether reasonable steps have been taken by the company for recovery of the principal and interest;

(iv) is there an adequate internal control system commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods and services. Whether there is a continuing failure to correct major weaknesses in internal control system.

(v) in case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with? If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?

(vi) Where maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, whether such accounts and records have been made and maintained;

(vii) (a) is the company regular in depositing undisputed statutory dues including provident fund, employees' state insurance, income-tax, sales-tax, wealth tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.

(b) in case dues of income tax or sales tax or wealth tax or service tax or duty of customs or duty of excise or value added tax or cess have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (A mere representation to the concerned Department shall not constitute a dispute).

(c) whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made thereunder has been transferred to such fund within time.

(viii) whether in case of a company which has been registered for a period not less than five years, its accumulated losses at the end of the financial year are not less than fifty percent of its net worth and whether it has incurred cash losses in such financial year and in the immediately preceding financial year;

(ix) whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported;

(x) whether the company has given any guarantee for loans taken by others from bank or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company;

(xi) whether term loans were applied for the purpose for which the loans were obtained;

(xii) whether any fraud on or by the company has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated.

4. Reasons to be stated for unfavourable or qualified answers -

(1) Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the reasons for such unfavourable or qualified answer, as the case may be.

(2) Where the auditor is unable to express any opinion in answer to a particular question, his report shall indicate such fact together with the reasons why it is not possible for him to give an answer to such question.

NATURE OF AUDIT UNDER CARO-2015:

CARO-2015 relates to audit report and the points to be reported in this audit report are in addition to those which are to be mentioned compulsorily under other provision of section 143 of Companies Act, 2013.

Hence, the audit conducted under CARO-2015 seems to be Supplementary Audit. The following description will also support this view:

(1) According to section 143 (1-a) of Companies Act, 2013 the auditor is require to check the security of loans and advances, if he is satisfied about it then he is not supposed to report this matter in the report. Whereas as per CARO-2015 he has to report all the matters mentioned in the order, whether he is satisfied or not.

(2) In the same way the provisions of section 143(2) and 143(3) of Companies Act, 2013 will be applicable on all the companies whether they are governed under CARO-2015 [or section 143(11)] or not.

(3) In case of Government Companies, section 394 of Companies Act, 2013 provides that the auditor has to report about the instructions of CAG also along with the matters mentioned in CARO-2015. The order can not replace the provision of section 394. Hence the auditor will have to make the compliance of CARO-2015 as well as the instruction of CAG under section 394.

In this way it can be said that this order has given some specific powers to the company auditor, but these powers do not reduce his liability but increases his liability. The company auditor has to discharge his liability according to Companies Act as well as according to CARO-2015.

SOCIAL AUDIT

In order to understand the concept of social audit, one should first understand the linkages between business and society. Proprietor is the member of society. His business acitivities should be directed towards serving the society. Also, it is known that it uses the resources provided by the society, and can't work without it. If the business activities are only for profit maximization, then it will be only a short term organization. Hence, it is the prime duty of a businessman to operate business activities with keeping the interest of the society. So it can be stated that both are depended on each other. No business without the society and there is no development of the society without business.

Now the question arises that to what extent a business is serving for the society as compared to the earnings derived from there, the measurement or evaluation of such thing may be called as social audit. A social audit is a way of measuring, understanding, reporting and ultimately analyzing an organization's social and ethical performance. According to Yasaswy, "Social audit is a systematic study and evaluation of an organization's social performance as distinguished from its economic performance. It is concerned with possible influences on the social quality of life instead of the economic quality of life. Social audit is commitment to undertake systematic assessment of the reporting those corporate activities which have a social impact."

Moreover, 'as the financial audit assesses the financial performance of a concern in the same way social audit measures the social performance of a corporation in a systematic manner'.

On the basis of above description it can be concluded that 'social audit, as distinguished from financial audit, is such an audit in which social performance of an entity is analyzed to know whether the activities of the entity have affected the society positively or negatively.

SCOPE AND SUBJECT MATTER OF SOCIAL AUDIT:

As depicted above, under social audit the effect of business activities on the society is analyzed. For analyzing this effect there are following two bases:

- Social Costs
- Social Benefits

SOCIAL COSTS

Every business activity has an object to earn the Profits, for this purposes costs are minimized. There are some costs which are not born by the trader while doing business activities, hence he do not include these costs in the cost of business activities. But some other people or the society bears these costs. These costs are called as social costs, because these represent to those production sources which are used by the businessman but directly or indirectly cost of these sources are born by other person or to say society.
Normally a business entity ignores to maintain those sources which are not much important for them in economic point of view. This is the reason by which there has always been a dispute between the profit objective and expenditure incurred on purification of environment. By this way a business entity has been failure to maintain not only natural sources but also misuse water, air and other natural sources for the benefit of its business. The society has to bear the following social costs:

(i) Harmful gases and polluted water from factories create environmental problems.
(ii) Deterioration of human factor.
(iii) Use of child and female labour at cheaper rate adversely effects on social order.
(iv) Blind destruction of energy resources: Due to increasing demand of transport and other industries crude oil and coal are being destructed without any restrictions, while these resources are only for a limited period.
(v) Lack of reforestation: Due to increasing demand of Industries and Trade a blind destruction of forests are made but no plantation is made for future, which adversely affect the environment and ecosystem.
(vi) Use of mechanism reduces the employment opportunities.
(vii) Society has to bear the adversity of monopoly business as well as cut-throat competition.
(viii) Increase in social evils due to economic disparity.

In social audit an auditor make systematic assessment of above costs and report them on some meaningful definable domain of the business activities that have social impact.

SOCIAL BENEFITS:

Social benefits are the total benefits to society from consuming goods/services generated by business activities. The society gets the following benefits and opportunities from the business activities:

(i) Exploration of natural resources for good cause: There are so many natural resources in the earth, if they are not extracted, they will become useless after a certain time. Although the businessman extracts them in his own interest, still society gets advantages of these useful products.
(ii) Fulfillment of human needs and improvement in life style.
(iii) Increase in job opportunities.
(iv) Eradication of poverty.
(v) Help in the development of amenities.
(vi) Execution of non-profitable activities like educational institutions, hospitals, temples, inns, gardens etc.
(vii) Contribution by way of tax, duties etc. which are used by the Government for uplift of public facilities.
(viii) Providing labour welfare activities.
(ix) Help in decreasing economic disparity.
(x) Contribution towards increase in GDP and National Income.

CONCLUSION

As mentioned above the audit conducted under **CARO-2015** (the order issued by the Central Government under the power vested in section 143(11) of Companies Act, 2013) is related to specific companies and the auditor has to mention about the specific points in his report which have been narrated in the said order. Due to this specific nature the audit under section 143(11) is so called as social audit. The another reason of calling it as social audit is that the auditor has to check the suitability and necessity of various business transactions while conducting audit under this order.

Section 143(11) increases the liability of the auditor, the auditor not only requires to check that the transaction has been taken place or not but he requires to see that they are in the interest of the company or not. Hence while passing this order it was viewed that a provision of a regular social audit has been made.

The audit conducted under **CARO-2015** is quite wide as compared to normal statutory audit but the objectives of social audit and audit U/s 143 (11) are quite different. The audit under section 143 (11) may be called as proprietary audit but not social audit. As in social audit it is analyzed that to what extent the business is serving to the society as compared to those cost which the society has to bear due to business activities, means in social audit the social costs and social benefits are analyzed. So the audit under section 143(11) can't be called as social audit.

Now-a-days there are other dimensions of social audit like Corporate Social Responsibility and Impact of Government Policies in the uplift of general public, like MGNREGA Scheme, but this is another field of research and out of preview of the present article.

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