

## Provisions Relating to Accounts of Companies: Comparative Study of the Companies Act, 2013 and 1956



Provisions relating to the accounts of companies are contained in Sections 128 to 137 (except 135) under Chapter IX of the Companies Act, 2013 (CA, 2013) and the Companies (Accounts) Rules, 2014. Similar provisions in the Companies Act, 1956 (CA, 1956) were contained in Sections 209 to 220 under Chapter I of Part VI of the Act. Section 2(13) of CA, 2013 has given an inclusive definition whereas in CA, 1956, though there was no separate definition of 'Books of Account'. Read on to know more...

### Books of Accounts

Section 2(13) of the Companies Act, 2013 (CA, 2013) has given an inclusive definition. "Books of account" includes records maintained in respect of—

- (i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;
- (ii) all sales and purchases of goods and services by the company;
- (iii) the assets and liabilities of the company; and
- (iv) the items of cost as may be prescribed under Section 148 in the case of a company which belongs to any class of companies specified under that Section;

In the Companies Act, 1956 (CA, 1956), though there was no separate definition of 'Books of Account'

but Section 209 of the Act required every company to keep proper books of account with respect to -

- (a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure take place;
- (b) all sales and purchases of goods by the company;
- (c) the assets and liabilities of the company;
- (d) in the case of a company pertaining to any class of companies engaged in production, processing, manufacturing or mining activities, such particulars relating to utilisation of material or labour or to other items of cost as may be prescribed, if such class of companies is required by the Central Government to include such particulars in the books of account.

The CA, 2013 has covered 'sale and purchase of services' in the scope of books of account.

### Proper Books of Accounts

Section 128(1) of CA, 2013 requires every company to prepare and keep at its registered office, books of account and other relevant books and papers and financial statements for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or



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offices, if any, and explain the transactions effected both at the registered office and its branches and to keep such books on accrual basis and according to the double entry system of accounting.

Section 209(3) of the CA, 1956 provided that proper books of account would not be deemed to be kept with respect to the matters specified therein if (a) there are not such books kept as are necessary to give a true and fair view of the state of affairs of the company or branch office, as the case may be, and to explain its transactions or (b) such books are not kept on accrual basis and according to the double entry system of accounting.

## Books and Papers

Section 2 (12) of the CA, 2013 defines "book and paper" and "book or paper" to include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form. Whereas, Section 2 (8) of the CA, 1956 defines "book and paper" and "book or paper" to include accounts, deeds, vouchers, writings, and documents. So, 'minutes and registers' are now part of 'Book and Paper'. Section 128(1) of the CA, 2013 requires every company to prepare and keep at its registered office other relevant books and papers along with books of account, whereas in the CA, 1956, Books and Papers have a reference only in Section 209A which deals with inspection of companies.

## Maintenance of Books of Accounts in Electronic Mode

Second *proviso* to Section 128 of the CA, 2013 permits the company to keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed. Rule 3 of the Companies (Accounts) Rules, 2014 prescribes the manner of books of account to be kept in an electronic mode. As per the Rule:

- (1) The books of account and other relevant books and papers maintained in an electronic mode shall remain accessible in India so as to be usable for subsequent reference.
- (2) The books of account and other relevant books and papers referred to in sub-Rule (1) shall be retained completely in the format in which they were originally generated, sent or received, or in a format which shall present accurately the information generated, sent or received and the information contained in the electronic records shall remain complete and unaltered.

**Section 128(1) of the CA, 2013 requires every company to prepare and keep at its registered office, books of account and other relevant books and papers and financial statements for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and to keep such books on accrual basis and according to the double entry system of accounting.**

- (3) The information received from the branch offices shall not be altered and shall be kept in a manner where it shall depict what was originally received from the branches.
- (4) The information in the electronic record of the document shall be capable of being displayed in a legible form.
- (5) There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate and such records shall not be disposed of or rendered unusable, unless permitted by law, provided that the back-up of the books of account and other books and papers of the company maintained in an electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a periodic basis.
- (6) The company shall intimate to the Registrar on an annual basis at the time of filing of the financial statement:
  - (a) the name of the service provider;
  - (b) the internet protocol address of service provider;
  - (c) the location of the service provider (wherever applicable);
  - (d) where the books of account and other books and papers are maintained on cloud, such address as provided by the service provider.

There was no specific provision in the CA, 1956 regarding the maintenance of books of accounts on electronic mode. However, there was provision for filing of electronic record, including financial statement in an electronic mode to the Registrar of Companies. Section 610E provided that all the provisions of the Information Technology Act, 2000 relating to the electronic records (including the manner and format in which the electronic records to be filed), in so far as they were not inconsistent

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with this Act, would apply, or in relation, to the records in electronic form under Section 610B.

## Financial Statement

As per Section 2(40) of the CA, 2013 "financial statement" in relation to a company, includes—

- (i) a balance sheet as at the end of the financial year;
- (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
- (iii) cash flow statement for the financial year;
- (iv) a statement of changes in equity, if applicable; and
- (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement.

Such definition of 'Financial statement' neither was available under the CA, 1956 nor was the term used in any sections in that Act. As per the definition, all the companies, except for One Person Company, small company and dormant company is required to prepare a cash flow statement. Earlier, the Companies (Accounting Standards) Rules, 2006 exempted 'SMCs' from preparing the cash flow statement. Since no format is prescribed in Schedule III to the CA, 2013, the cash flow statement shall be prepared in the format prescribed in the AS-3 – Cash Flow Statement only.

## Financial Year

As per Section 2(41) of the CA, 2013, "financial year" in relation to any company or body corporate, means the period ending on the 31<sup>st</sup> day of March every year, and where it has been incorporated on or after the 1<sup>st</sup> day of January of a year, the period

ending on the 31<sup>st</sup> day of March of the following year, in respect whereof the financial statement of the company or body corporate is made up:

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause.

Under the CA, 1956, Section 2(17) and section 210(3) and (4) were dealing with the 'financial year'.

As per Section 2(17) of the CA, 1956 "financial year" means, in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before it in the annual general meeting is made up, whether that period is a year or not. Provided that, in relation to an insurance company, "financial year" shall mean the calendar year referred to in sub-Section of Section 11 of the Insurance Act, 1938.

Section 210 (3) of the CA, 1956 provided that the profit and loss account shall relate:

- (a) in the case of the first annual general meeting of the company, to the period beginning with the incorporation of the company and ending with a day which shall not precede the day of the meeting by more than nine months; and
- (b) in the case of any subsequent annual general meeting of the company, to the period beginning with the day immediately after the period for which the account was last submitted and ending with a day which shall not precede the day of the meeting by more than six months, or in cases where an extension of time has been granted for holding the meeting under the second *proviso* to sub-Section (1) of Section 166, by more than six months and the extension so granted.

Section 210(4) of the CA, 1956 provided that the period to which the aforesaid account relates, is referred to in this Act as a "financial year"; and it may be less or more than a calendar year, but it shall not exceed 15 months. Provided that it may extend to 18 months where special permission has been granted on that behalf by the Registrar.

**Now, under the CA, 2013 all companies have to have their financial year as the period ending on 31st March every year. Exemption is available only to holding/ subsidiary companies of foreign companies with the Government approval. All existing companies, not having their financial year closing on 31<sup>st</sup> March have to align latest by 31<sup>st</sup> March, 2016. Period of first accounting year of a company is also defined in the Section and there shall be no options available.**

Now, under the CA, 2013, all companies have to have their financial year as period ending on 31st March every year. Exemption is available only to holding/subsidiary companies of foreign companies with Government approval. All existing companies, not having their financial year closing on 31st March have to align latest by 31st March, 2016. The period of the first accounting year of a company is also defined in the Section and there shall be no options available.

## Form and Content of Financial Statement

Section 129 (1) of the CA, 2013 requires that the financial statements of a company shall

- (i) give a true and fair view of the state of affairs of the company,
- (ii) comply with the accounting standards notified under Section 133 and
- (iii) be in the form or forms as may be provided for different class or classes of companies in Schedule III.

This sub-Section shall not apply to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company.

Sub-Section (5) of Section 129 further provides that without prejudice to sub-Section (1), where the financial statements of a company do not comply with the accounting standards referred to in sub-Section (1), the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

Sub-section (6) of Section 129 provides that the Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this Section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

Similar provisions were there in the CA, 1956. Section 211(1) provided that every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of the financial year and shall, subject to the provisions of this section, be in the form set out in Part I of

**Section 129 of the CA, 2013 requires that the financial statements shall comply with the accounting standards notified under Section 133 and Section 133 provides that the Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.**

Schedule VI, or as near thereto as circumstances admit or in such other form as may be approved by the Central Government either generally or in any particular case ; and in preparing the balance sheet due regard shall be had, as far as may be, to the general instructions for preparation of the balance sheet under the heading "Notes" at the end of that Part :

Sub-Section (2) provided that every profit and loss account of a company shall give a true and fair view of the profit or loss of the company for the financial year and shall, subject as aforesaid, comply with the requirements of Part II of Schedule VI, so far as they are applicable thereto :

Nothing contained in this sub-Sections (1) and (2) applied to any insurance or banking company or any company engaged in the generation or supply of electricity, or to any other class of company for which a form of balance sheet and profit and loss account have been specified in or under the Act governing such class of company.

Sub-Section (3) permitted the Central Government to, by notification in the Official Gazette, exempt any class of companies from compliance with any of the requirements in Schedule VI if, in its opinion, it is necessary to grant the exemption in the public interest, either unconditionally or subject to such conditions as may be specified in the notification.

Sub-Section (3A) required every profit and loss account and balance sheet of the company to comply with the accounting standards and where the profit and loss account and the balance sheet of the company did not comply with the accounting standards, such companies were to disclose in its profit and loss account and balance sheet, the deviation from the accounting standards, the reasons for such deviation and the financial effect, if any, arising due to such deviation.

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**Section 134(7) of the CA, 2013 requires a signed copy of every financial statement, including consolidated financial statement, if any, to be issued, circulated or published along with a copy each of (a) any notes annexed to or forming part of such financial statement, (b) the auditor's report and (c) the Board's report referred to in sub-Section (3).**

Sub-Section (4) empowered the Central Government to, on the application, or with the consent of the Board of directors of the company, by order, modify in relation to that company any of the requirements of this Act as to the matters to be stated in the company's balance sheet or profit and loss account for the purpose of adapting them to the circumstances of the company.

## Accounting Standards

Section 129 of the CA, 2013 requires that the financial statements shall comply with the accounting standards notified under Section 133 and Section 133 provides that the Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, in consultation with and after examination of the recommendations made by the National Financial Reporting Authority.

Rule 7 of the Companies (Accounts) Rules, 2014 provides that as a transition provision, the standards of accounting as specified under the Companies Act, 1956 (i.e. the Companies (Accounting Standards) Rules, 2006) shall be deemed to be the accounting standards until accounting standards are specified by the Central Government under Section 133.

Similar provisions were provided in sub-Sections (3A), (3B) and (3C) of Section 211 of CA, 1956.

## Formats for Financial Statements

Section 129 of the CA, 2013 requires that the financial statements shall be in the form or forms as may be provided for different class or classes of companies in Schedule III.

Sub-Section (6) of Section 129 provides that the Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this Section or the Rules made thereunder, if it is considered necessary to grant such exemption in

the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.

Schedule III to the CA, 2013 provides that the disclosure requirements specified in this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Accounting Standards prescribed under the Companies Act, 2013. Additional disclosures specified in the Accounting Standards shall be made in the notes to accounts or by way of additional statements unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act shall be made in the notes to accounts in addition to the requirements set out in this Schedule.

Such provisions were also there in Section 211 and Schedule VI of the Companies Act, 1956. However, Schedule III to the Companies Act, 2013 also contains general instructions for the preparation of consolidated financial statements which provides that where a company is required to prepare Consolidated Financial Statements, *i.e.*, consolidated balance sheet and consolidated statement of profit and loss, the company shall *mutatis mutandis* follow the requirements of this Schedule as applicable to a company in the preparation of balance sheet and statement of profit and loss. In addition, the consolidated financial statements shall disclose the information as per the requirements specified in the applicable Accounting Standards. It also requires certain additional information to be disclosed in the Consolidated Financial Statements.

## Consolidated Financial Statement

Sub-Section (3) of Section 129 of the CA, 2013 provides that where a company has one or more subsidiaries, it shall, in addition to financial statements provided under sub-Section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-Section (2) provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in such form as may be prescribed. The Central Government may provide for the consolidation of accounts of the companies in such manner as may

be prescribed. An Explanation to the sub-Section provides that for the purposes of this sub-Section, the word “subsidiary” shall include associate company and joint venture.

Sub-Section (4) of Section 129 provides that the provisions of this Act applicable to the preparation, adoption and audit of the financial statements of a holding company shall, *mutatis mutandis*, apply to the consolidated financial statements referred to in sub-Section (3).

Rule 5 of the Companies (Accounts) Rules, 2014 provides the form of the statement containing the salient features of the financial statement of a company’s subsidiary or subsidiaries, associate company or companies and joint venture or ventures under the first *proviso* to sub-Section (3) of Section 129 shall be in Form AOC-1.

Rule 6 provides the manner of consolidation of accounts and it requires that the consolidation of financial statements of the company shall be made in accordance with the provisions of Schedule III of the Act and the applicable accounting standards.

There was no such provision in the the CA, 1956 which mandated the mandatory consolidation of the financial statement by a company having a subsidiary company. However, Section 212 required the Balance Sheet of the Holding Company to include certain particulars as to its subsidiary company(s) and to attach to the balance sheet of a holding company (a) a copy of the balance sheet of the subsidiary, (b) a copy of its profit and loss account,(c) a copy of the report of its Board of directors,(d) a copy of the report of its auditors and (e) a statement of the holding company’s interest in the subsidiary as specified in sub-Section (3). However, sub-Section (2) (a) required the balance sheet, profit and loss account, auditors report and directors’ report of the subsidiary company to be made out in accordance with the requirements of that

The CA, 2013 requires mandatory preparation of the consolidated financial statement in case a company has a subsidiary, associate and joint venture. It is worthwhile to mention here that the CA, 2013 contains definitions of ‘Subsidiary company’ as well as that of ‘associate company’.

### Authentication of Accounts

Section 134 (1) of the CA,2013 requires that the financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the

Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon.

Section 215 of the CA, 1956 provided that the balance sheet and the profit and loss account would be approved by the Board of directors before they are signed on behalf of the Board in accordance with the provisions of this Section and before they are submitted to the auditors for their report thereon. Every balance sheet and every profit and loss account of a company shall be signed on behalf of the Board of directors:

(i) in the case of a banking company, by the persons specified in clause (a) or clause (b), as the case may be, of sub-Section (2) of Section 29 of the Banking Companies Act, 1949 (10 of 1949) ;

(ii) in the case of any other company, by its manager or secretary if any, and by not less than two directors of the company one of whom shall be a managing director, where there is one.

In the case of a company not being a banking company, when only one of its directors is for the time being in India, the balance sheet and the profit and loss account shall be signed by such director; but in such a case there shall be attached to the balance sheet and the profit and loss account, a statement signed by him explaining the reason for non-compliance with the provisions of sub-Section (1).

The authentication of the financial statement by the Chairman (if authorised by the Board) along with CFO and company secretary (if so appointed) is a new provision.

**Section 128(6) of the CA, 2013 provides that the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this Section, contravenes such provisions, such person of the company shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than ₹ 50,000 but which may extend to ₹ 5 lakh or with both.**

## Circulation of Accounts

Section 134(7) of CA, 2013 requires a signed copy of every financial statement, including the consolidated financial statement, if any, to be issued, circulated or published along with a copy each of (a) any notes annexed to or forming part of such financial statement, (b) the auditor's report and (c) the Board's report referred to in sub-Section (3).

Section 210(1) of CA, 1956 also required that at every annual general meeting of a company held in pursuance of Section 166, the Board of directors of the company would lay before the company (a) a balance sheet as at the end of the period specified in sub-Section (3) and (b) a profit and loss account/ Income and Expenditure Account for that period.

Section 216 of CA, 1956 required the auditors' report (including the auditors' separate, special or supplementary report, if any) to be attached thereto and Section 217 (1) required a report by its Board of directors to be attached to every balance sheet laid before a company in a general meeting.

So, there is no change in the two Acts with regard to the circulation of accounts.

## Revision of Accounts

In the CA, 2013, Section 130 provides that a company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory regulatory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to the effect that (i) the relevant earlier accounts were prepared in a fraudulent manner; or (ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements. Sub-Section (2) provides that without prejudice to the provisions

contained in this Act the accounts so revised or recast under sub-Section (1) shall be final.

Another Section 131 of the CA, 2013 provides that, If it appears to the directors of a company that (a) the financial statement of the company; or (b) the report of the Board do not comply with the provisions of Section 129 (The financial statements do not give a true and fair view of the state of affairs of the company or companies, or do not comply with the accounting standards notified under Section 133 or are not in the form or forms as may be provided for different class or classes of companies in Schedule III) or Section 134 (financial statements not properly signed or auditor's report is not attached or Directors' Report containing required disclosures is not attached), they may prepare a revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining the approval of the Tribunal on an application made by the company in such form and manner as may be prescribed. The Tribunal shall give notice to the Central Government and the Income tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section. This revision of account shall be subject to the conditions that such a revised financial statement or report shall not be prepared or filed more than once in a financial year and the detailed reasons for the revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

Sub-Section (2) of Section 131 provides that where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in the general meeting, the revisions must be confined to (a) the correction in respect of which the previous financial statement or report do not comply with the provisions of Section 129 or Section 134 and (b) the making of any necessary consequential alternation.

Under the Companies Act, 1956, there was no specific provision permitting revision of account. Neither was there any provision prohibiting the revision of accounts once they were adopted. The Ministry of Corporate Affairs (then Department of Company Affairs) *vide* its Circular No.17/75/2002CL-V dated 13th January, 2003 clarified that a company could reopen and revise its accounts even after their adoption in the annual general meeting and filing with the Registrar of

**Section 209A of the CA, 1956 provided that the books of account and other books and papers of every company shall be open to inspection during business hours (i) by the Registrar or (ii) by such officer of the Government as may be authorised by the Central Government in its behalf or (iii) by such officers of the Securities and Exchange Board of India as may be authorised by it. Such inspection could have been made without giving any previous notice to the company or any officer thereof.**

Companies in order to comply with the technical requirements of any other law to achieve the object of exhibiting a true and fair view. The revised annual accounts would be required to be adopted either in the extraordinary general meeting or in the subsequent annual general meeting and filed with the Registrar of Companies. The matter was further clarified by the Ministry *vide* its General Circular no. 5/2010 dated 22nd November, 2010 that keeping in view the provisions of Section 220 of the Act read with the Ministry's General Circular No. 1/2003, a company cannot lay more than one set of annual accounts for a particular financial year unless it has reopened/revised such annual accounts after their adoption in the Annual General Meeting on the grounds specified in the Ministry's Circular No. 1/2003. So far as the auditor's report on revision of accounts is concerned, the same has been dealt with by SA 560 (Revised) – Subsequent Events. The Standard has visualised two situations in this regard. One, when Facts which become known to the Auditor after the date of the Auditor's Report but before the date the financial statements are issued and second, when the facts which become known to the Auditor after the financial statements have been issued. The Standard mandates auditors to take appropriate steps in both the situations in case the management decides to revise the accounts or not.

### Person Responsible to Maintain Books of Accounts and Penalties for Contravention

Section 128(6) of the CA, 2013 provides that the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this Section, contravenes such provisions, such person of the company shall be punishable with imprisonment for a term which may extend to one year or with a fine which shall not be less than ₹ 50,000 but which may extend to ₹ 5 lakh or with both.

Section 209(6) and (7) of CA, 1956 made the following persons responsible to maintain books of account:

- (a) where the company has a managing director or manager, such managing director or manager and all officers and other employees of company,
- (b) where the company has neither a managing director nor a manager, every director of the company,
- (c) Any person having been charged by the managing

director, manager or Board of directors, as the case may be, with the duty of seeing that the requirements of this Section are complied with.

Section 209(5) of CA, 1956 provided that, if any of the persons referred to in sub-Section (6) fails to take all reasonable steps to secure compliance by the company with the requirements of this Section, or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to ₹ 10,000, or with both provided that no person shall be sentenced to imprisonment for any such offence unless it was committed wilfully.

Thus, the CA, 2013 brings in responsibility to maintain books of accounts on whole-time director (in charge of finance) and Chief Financial Officer also.

### Filing of Accounts

Section 137 of the CA, 2013 requires that a copy of the financial statements, including the consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, to be filed with the Registrar within 30 days of the date of the annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under Section 403.

The Section also provides that if the financial statements are not adopted at the annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-Section (1) shall be filed with the Registrar within 30 days of the date of the annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose. The Section further provides that the financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within 30 days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under Section 403.

It further provides that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents

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which are required to be attached to such financial statements, within 180 days from the closure of the financial year.

The Section further provides that where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-Section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within 30 days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under Section 403.

Section 220 (1) of the CA, 1956 provided that after the balance sheet and the profit and loss account have been laid before a company at an annual general meeting as aforesaid, these would be filed with the Registrar within 30 days from the date on which the balance sheet and the profit and loss account were so laid, or where the annual general meeting of a company for any year has not been held, there shall be filed with the Registrar within thirty days from the latest day on or before which that meeting should have been held in accordance with the provisions of this Act provided that in the case of a private company, a copy of the balance sheet and copy of the profit and loss account shall be filed with the Registrar separately.

The Section also provided that if the annual general meeting of a company before which a balance sheet was laid as aforesaid did not adopt the balance sheet, or was adjourned without adopting the balance sheet, or, if the annual general meeting of a company for any year had not been held, a statement of that fact and of the reasons therefor, would be annexed to the balance sheet required to be filed with the Registrar.

The provisions relating to filing of financial statements are the same except separate filing of the Profit and Loss Account by private limited companies under the provisions of the CA, 1956 did not find a place in the CA, 2013.

## **Period of Retention of Books of Accounts**

Section 128(5) of the CA, 2013 requires that the books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period of less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in

such books of account shall be kept in good order:

Provided that where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.

Section 209(4A) of the CA, 1956 have the similar provisions.

## **Inspection of the Books of Account**

Section 209A of the CA, 1956 provided that the books of account and other books and papers of every company shall be open to inspection during business hours (i) by the Registrar or [(ii) by such officer of the Government as may be authorised by the Central Government in its behalf or (iii) by such officers of the Securities and Exchange Board of India as may be authorised by it. Such inspection could have been made without giving any previous notice to the company or any officer thereof.

In the CA, 2013, such provisions are contained in Sections 206 to 209 under Chapter XIV – Inspection, Enquiry and Investigation. Section 206 of the Act provides the power to call for information, inspect books and conduct inquiries. Sub-Section (3) of Section 206 provides that if no information or explanation is furnished to the Registrar within the time specified under sub-section (1) or if the Registrar on an examination of the documents furnished is of the opinion that the information or explanation furnished is inadequate or if the Registrar is satisfied on a scrutiny of the documents furnished that an unsatisfactory state of affairs exists in the company and does not disclose a full and fair statement of the information required, he may, by another written notice, call on the company to produce for his inspection such further books of account, books, papers and explanations as he may require at such place and at such time as he may specify in the notice: Provided that before any notice is served under this sub-Section, the Registrar shall record his reasons in writing for issuing such notice.

Sub-Section (5) of Section 206 provides that the Central Government may, if it is satisfied that the circumstances so warrant, direct inspection of books and papers of a company by an inspector appointed by it for the purpose. And under sub-Section (6) the Central Government may, having regard to the circumstances by general or special order, authorise any statutory authority to carry out the inspection of books of account of a company or class of companies. ■