

CORPORATE FRAUDS – FINANCIAL & LEGAL ASPECTS

PRESENTATION

BY

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DEFINITION OF FRAUD

- According to Section 447 of the Companies Act, 2013 Fraud in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;
- “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;
- “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.

PUNISHMENT FOR FRAUD

- According to Section 447 of the Act, any person who is found to be guilty of fraud involving an amount of at least ten lakh rupees or one per cent. of the turnover of the company, whichever is lower shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:
- Where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.
- Where the fraud involves an amount less than rupees ten lakh or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to [rupees twenty lakh] or with both.

PUNISHMENT FOR FRAUD (CONTD.)

- For False statement the penalty as laid down in Section 447 shall be applicable.
- According to section 449, if any person intentionally gives false evidence—
 - (a) upon any examination on oath or solemn affirmation, authorized under the Act; or
 - (b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under the Act, or otherwise in or about any matter arising under the Act,
- he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to ten lakh rupees.

RESPONSIBILITY OF AUDITORS RELATING TO FRAUD

- According to Section 143(12) of the Act, if an Auditor in the course of his duties has reason to believe that an offence involving fraud of prescribed amount is being or has been committed in the company or by its officers or employees, the Auditor shall report the matter to the Central Government within such time & manner as may be prescribed.
- For Fraud less than Rs. 1 crores the Auditor shall report to the Audit committee or to the Board of Directors in the absence of Audit Committees.
- Non Compliance will results in fine which shall not be less than Rs. 1 lakh but which may extend to Rs. 25 lakhs.

RESPONSIBILITY OF AUDITORS RELATING TO FRAUD (CONTD.)

□ CASE STUDY

➤ THE Punjab National Bank Fraud

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THANK
YOU!