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Decoding section 447 of Companies Act 2013

Introduction

Section 447 of the [Companies Act, 2013](#) ('Act') provides for the punishment of fraud in company matters. The offence of fraud is punishable, on conviction, with imprisonment, a fine or both. In recent years, with increased frauds, the Indian regulators have deemed it most apt and important to regulate the frauds in company matters.

The Meaning of Fraud under the Act

Well, fraud under the Act is defined under section 447 (1) of the Act which defines it as "any act or omission, including a misrepresentation, by a director or any other person, whether a party to the fraud or not, which involves any fraud by him or any other person, or a willful concealment of any material facts from any person with the intent to deceive, and thereby prejudice the interests of the company, its shareholders or creditors". This Section further states that if a company has been already established, the intention of the directors or other persons involved in the fraud must be to cause wrongful loss to the company or wrongful gain to themselves or any other person.

Procedure for Investigation

Section 447 (2) provides that if it appears to the Central Government or any other regulatory body that any person has committed any fraud in connection with the promotion, formation, management or winding up of any company, then the Central Government may, either suo-motu or upon complaint, direct the Serious Fraud Investigation Office under the control of Central Government to investigate the fraud and submit a report of such investigation to Central Government.

Punishment for Fraud

If any person is found to be guilty of fraud as defined under Section 447 (1), then, on conviction, he/she shall be punishable with imprisonment for a term which shall not be less than 6 months but which may extend to 10 or 10 years and shall be liable to fine which may extend to 1 lakh rupees or an amount equivalent to 3 times the amount of fraud whichever is higher.

Applicability of Section 447

The applicability of Section 447 extends to all the "Companies" as defined under the

Companies Act, 2013 which include all public and private companies, limited liability partnerships and association of persons. It applies to any act or omission including fraud by any director or other person in relation to the promotion, formation, management or winding up of a company.

Conclusion

In conclusion, it can be said that Sections 447 of the Companies Act, 2013 is a very important and stringent Section which deals with fraud in company matters. It provides for a severe punishment such as imprisonment for a term between 6 months to 10 years and fine up to 1 lakh rupees or an amount equivalent to 3 times the amount of fraud whichever is higher. Therefore, it is of utmost importance that the directors and other persons involved in the affairs of a company are aware of the implications of this Section and take all necessary steps to avoid any fraudulent activities in relation to the promotion, formation, management or winding up of a company.

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