

## **DRAFT RULES UNDER THE COMPANIES ACT, 2013**

### **COMPANIES (COST RECORDS AND COST AUDIT) RULES, 2013**

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 and section 148 of the Companies Act, 2013 (18 of 103), the Central Government hereby makes the following rules, namely:

#### **1. Short title and commencement**

- (1) These rules may be called the Companies (Cost Records and Cost Audit) Rules, 2013.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) They shall be applicable in respect of financial years commencing on or after 1<sup>st</sup> April, 2014.

#### **2. Definitions**

In these rules, unless the context provides otherwise,-

- (a) “Act” means the Companies Act, 2013 (18 of 2013);
- (b) “Cost Accountant in practice” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who holds a valid certificate of practice under subsection (1) of section 6 of that Act and who is deemed to be in practice under subsection (2) of section 2 of that Act, and includes a firm of cost accountants;
- (c) “cost auditor” means an auditor appointed to conduct audit of cost records under sub-section (3) of section 148 of the Act;

(d) “Cost Audit Report” means the report audited and signed by the cost auditor in accordance with the proviso to sub-section (5) of section 148 and rule 5 of these rules;

(e) “Cost Records” means books of account relating to utilisation of materials, labour and other items of cost as applicable to the production of goods or provision of services under the provisions of section 148 of the Act and these rules;

(f) “Institute” means the Institute of Cost Accountants of India constituted under the Cost and Works Accountants Act, 1959 (23 of 1959);

(g) All other words and expressions used in these rules but not defined, and defined in the Act shall have the same meanings as assigned to them in the Act.

### **3. Application**

(1) Applicability for Cost Records: For the purpose of sub-section (1) of section 148 of the Act, the following class of companies, including Foreign Companies defined in sub-section (42) of section 2 of the Act, shall be required to include cost records in their books of account:-

Companies engaged in the production of following goods or providing following services:-

#### (a) Companies engaged in Strategic Sectors

(i) Machinery, mechanical appliances used in defence, space and atomic energy sectors such as: (A) Nuclear reactors; fuel elements (cartridges), non- irradiated, for nuclear reactors; machinery and apparatus for isotopic separation (B) Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers (C) aircraft, spacecraft and parts thereof (D) ships, boats and floating structures;

(ii) Turbo jets and turbo propellers;

(iii) Arms and ammunition;

(iv) Propellant powders; prepared explosives, (other than propellant powders); safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators;

(v) Radar apparatus, radio navigational aid apparatus and radio remote control apparatus;

(vi) Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons and parts of such vehicles, that are funded (investment made in the company) to the extent of 90% or more by the Government or Government Agencies;

(b) Companies engaged in an industry regulated by a Sectoral Regulator or a Ministry or Department of Central Government

(vii) Port services of stevedoring, pilotage, hauling, mooring, re-mooring, hooking, measuring, loading and unloading services rendered by a Port in relation to a vessel or goods regulated by the Tariff Authority for Major Ports under Section 111 of the Major Port Trusts Act, 1963;

(viii) Aeronautical services of air traffic management, aircraft operations, ground safety services, ground handling, cargo facilities and supplying fuel etc. rendered by airports and regulated by Airports Economic Regulatory Authority (“AERA” aeronautical) under the Airports Economic Regulatory Authority of India Act, 2008;

(ix) Telecommunication services made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature (other than broadcasting services) and regulated by the

Telecom Regulatory Authority of India (“TRAI”) under the Telecom Regulatory Authority of India Act, 1997;

(x) Generation, transmission, distribution and supply of electricity regulated by the Central Electricity Regulatory Commission (“CERC”) under The Electricity Act, 2003, other than for captive generation (as defined under The Electricity Rules);

(xi) Roads and other infrastructure projects that are recipients of concessions;

(xii) Active pharmaceutical ingredients or bulk drugs & formulations included in Chapter 30 of the Central Excise Tariff Act;

(xiii) Fertilisers under administered price mechanism (Urea) or subsidised, included in Chapter 31 of the Central Excise Tariff Act;

(xiv) Sugar and industrial alcohol included in Chapters 17 and 22 of Central Excise Tariff Act;

(xv) Petroleum products under administered price mechanism (Diesel, PDS Kerosene, Domestic LPG and Cooking Gas) or subsidised;

(c) Other companies

(xvi) Railway or Tramway locomotives, rolling stock, railway or tramway fixtures and fittings, mechanical (including electro mechanical) traffic signalling equipment’s of all kind as included in chapter 86 of Central Excise Tariff Act;

(xvii) Mineral products included in Chapter 25 of the Central Excise Tariff Act;

(xviii) Ores included in Chapter 26 of the Central Excise Tariff Act;

(xix) Mineral Fuels, mineral oils etc. included in Chapter 27 of the Central Excise Tariff Act (such as coal, lignite, peat, coke, coal gas etc.);

(xx) Base metals included in Chapters 72, 73, 74, 75, 76, 78, 79, 80 and 81 of the Central Excise Tariff Act;

(xxi) Inorganic chemicals, organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes included in Chapter 28 of the Central Excise Tariff Act , Organic Chemicals included in Chapter 29 of the Central Excise Tariff Act;

(xxii) Aircraft, spacecraft, that are funded (investment made in the company) to the extent of 90% or more by the Government or Government Agencies;

(xxiii) Vehicles, aircraft, vessels and associated transport equipment, that are funded (investment made in the company) to the extent of 90% or more by the Government or Government Agencies;

(xxiv) Jute and Jute Products;

(xxv) Edible Oil under Administrative Price Mechanism;

(xxvi) Construction Industry where there is any government concession or grant in any form;

(xxvii) Provision of healthcare services including check-up and preventive services, diagnostic services, disease management and patient care services including in corporate hospitals;

(xxviii) Provision of education services, other than such similar services falling under philanthropy or as part of social spend and do not form part of any business.

Provided that in the case of a multi-product or a multi services company (i.e. a company producing more than one product or service) the requirement under these rules shall apply to a

product or a service for which the individual turnover (from such specific product or such specific service) is rupees one hundred crore or more:

Provided further that in case of a company producing any one specific product or service covered in (d) above, the requirement under these rules shall be applicable if the net worth of the company is rupees five hundred crore or more, or the turnover from such product or such service is rupees one hundred crore or more, whichever is less:

Provided also that in the case of a company engaged in a Strategic Industry under this rule, the requirement under these rules shall be applicable if the turnover of the company is rupees five hundred crore or more:

Provided also that in case of companies engaged in an industry regulated by a sectoral regulator, the requirements of sectoral regulator regarding cost records and cost audit shall be taken into account.

(2) Applicability for Cost Audit:- The companies required to include cost records in their books of account in accordance with sub-rule (1), shall be required to get such cost records audited by a cost auditor.

**4. Maintenance of records-** (1) Every company to which these rules apply, including all units and branches thereof shall, in respect of each of its financial year commencing on or after the 1st day of April, 2014, keep cost records in Form "I" specified in Annexure to these rules.

(2) The cost records referred to in sub-rule (1) shall be kept on regular basis in such manner so as to make it possible to calculate per unit cost of production or cost of operations, cost of sales and margin for each of its products and activities for every financial year on monthly or quarterly or half-yearly or annual basis.

(3) The cost records shall be maintained in such manner so as to enable the company to exercise, as far as possible, control over the various operations and costs with a view to achieve optimum economies in utilization of resources. These records shall also provide necessary data which is required to be furnished under these rules.

**5. Cost Audit :-** (1) Every company covered under sub-rule (2) of rule 3 shall within one hundred and eight days of the commencement of every financial year appoint a cost auditor at a remuneration to be determined in accordance with provisions of sub-section (3) of section 148 and rules made thereunder.

(2) Every cost auditor, who conducts an audit of the cost records of the company, shall submit the cost audit report alongwith his or its reservations or qualifications or observations or suggestions in the Form II specified in Annexure to these rules.

(3) Every cost auditor shall forward his report to the Board within one hundred and eighty days from the close of the company's financial year to which the report relates.

(4) The provisions of sub-section (12) of section 143 of the Act and the relevant rules made thereunder shall apply *mutatis mutandis* to a cost auditor during performance of his functions under section 148 of the Act and these rules.

**6. Rules not to apply in certain cases:-** These Rules shall not apply to companies which are export oriented having more than seventy five per cent of their revenue in the form of earnings in foreign exchange or if such units are operating out of Special Economic Zones.

**7. Savings:-**

(1) The following rules are repealed:-

- (a) Companies (Cost Accounting Records) Rules, 2011
- (b) Companies (Cost Audit Report) Rules, 2011.
- (c) Cost Accounting Records (Telecommunication Industry) Rules 2011;
- (d) Cost Accounting Records (Petroleum Industry) Rules 2011;

- (e) Cost Accounting Records (Electricity Industry) Rules; 2011;
- (f) Cost Accounting Records (Sugar Industry) Rules; 2011;
- (g) Cost Accounting Records (Fertilizer Industry) Rules 2011;
- (h) Cost Accounting Records (Pharmaceutical Industry) Rules 2011;

(2) The supersession of such rules shall not affect things done or omitted to be done before such repeal.

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