

## **Draft Companies (Cost Records & Cost Audit) rules, 2013 is in contravention of section 148(1) of the Companies Act, 2013.**

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On a close reading of the provisions in sections 148(1) and 148(2) of the Companies Act, 2013 and the draft Companies (Cost Records & Cost Audit) Rules, 2013 it is observed that the Draft Rules contravenes the provisions of Section 148 (1). The same is highlighted hereunder:

### **1. Provision relating to Cost Accounting Records in the Companies Act 2013**

148. (1) Notwithstanding anything contained in this Chapter, the Central Government may, by order, in respect of **such class of companies** engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies:

Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.

### **2. Provision relating to Cost Audit in the Companies Act 2013**

148 (2) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of **class of companies, which are covered under sub-section (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed**, shall be conducted in the manner specified in the order.

### **3. Analysis and Conclusions**

On a reading of these two sections, it is clear that cost accounting records have to be kept by specified class of companies engaged in the production of such goods or providing such services as may be prescribed, irrespective of turnover and Net worth and only for Cost Audit (since there is no reference to turnover and Net worth in 148(1) as in the case of section 148(2); criteria of Turnover & Net worth can be applied. In other words ONLY the nature of 'GOODS or SERVICES' can be the criteria under 148(1) for prescribing the requirement to maintain cost accounting records.

**Class of Companies, though not defined in the Act, for the purpose of section 148(1) denotes Classification based on nature of industry. In any case turnover or Net worth is not a criteria for classification, as evident from 148 (2) which puts a further screening based on Turnover / Net worth on the class of Companies mentioned in section 148 (1).**

*Important point here is that Section 148(1) does not give scope for specifying the criteria of Turnover or Net worth or Government funding/concession for maintenance of cost accounting records. The Scope for specifying criteria of Turnover or Net worth is given only in Section 148 (2) which is with respect to Cost Audit.*

Whereas Cost Records & Cost Audit Rules, 2013 specifies Turnover & Net worth for maintenance of cost records as well as cost audit.

**Therefore it is very clear that Cost Records & Cost Audit Rules, 2013 is against the relevant provisions of the Companies Act, 2013, as far as maintenance of cost records is concerned.**

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