

ANALYSIS ON AMENDMENTS COMPANIES (COST RECORDS AND AUDIT) AMENDMENT RULES, 2016

By

CMA Harshad S Deshpande

M.com, ACMA, CS, CISA(US), CIMA(UK)

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INTRODUCTION

On 23rd February, 2016, Ministry of Corporate Affairs (MCA) has placed on its website (www.mca.gov.in) the Draft Companies (Cost Records and Audit) Amendment Rules, 2016 signifying revised scope and amendments in Companies Act, 2013 with respect to Cost Records and Audit.

- Subsequently on 14th July 2016 Companies (Cost Records and Audit) Amendment Rules, 2016 were notified

INTRODUCTION

- They shall come into force on the date of their publication in the official Gazette
- in rule 5, in sub-rule (1) of 31st December 2014
“Provided that in case of company covered in serial number 12 and serial numbers 24 to 32 of item (B) of rule 3, the requirement under this rule shall apply in respect **of each of its financial year commencing on or after 1st day of April, 2015.**”
- Hence will be applicable from FY 15-16

AMENDMENT WITH RESPECT TO APPLICABILITY OF COST RECORDS AND COST AUDIT

(A) Regulated Sector

Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
1	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 and regulated by the Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997); including activities that requires authorization or license issued by Department of Telecommunication, Government of India under Indian Telegraph Act, 1885.	Not applicable.	The words "Other than broadcasting services" are removed	Broadcasting industries are covered

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Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
2	Generation, transmission, distribution and supply of electricity regulated by the relevant regulatory body or authority under the Electricity Act, 2003 (36 of 2003);	Generation- &2716; Other Activity-NA	Chapter headings included. Captive Generation excluded	No Impact as Captive Generation exempted subsequently.
3	Petroleum products; including activities regulated by the Petroleum and Natural Gas Regulatory Board under the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006);	2709 to 2715; Other Activity-NA	The words “including activities” included	Other activities e.g. Storing, transportation, operating petroleum products will be specifically included.

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Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
4	Drugs and pharmaceuticals;	2901 to 2942; 3001 to 3006.	No Change	No Impact
5	Fertilisers;	3102 to 3105.	No Change	No Impact
6	Sugar and industrial alcohol;	1701; 1703; 2207	No Change	No Impact

(B) Non-regulated Sectors

Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
1	Machinery and mechanical appliances used in defence, space and atomic energy sectors excluding any ancillary item or items; Explanation. - For the purposes of this sub-clause, any company which is engaged in any item or items supplied exclusively for use under this clause, shall be deemed to be covered under these rules	8401; 8801 to 8805; 8901 to 8908	Chapter heading 8402 removed from point 1 and considered in point 31	No impact
2	Turbo jets and turbo propellers;	8411	No Change	No Impact
3	Arms, ammunitions and Explosives;	3601 to 3603; 9301 to 9306.	Word "Explosive" is added	Explosive products will be covered

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Sr. No	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
4	Propellant powders; prepared explosives (other than propellant powders); safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators;	3601 to 3603	No Change	No Impact
5	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus;	8526	No Change	No Impact
6	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 ninety per cent or more by the Government or Government agencies;	8710	No Change	No Impact

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Sr. No.	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
7	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;	Not applicable.	Section for Formation of Tariff Authority corrected from Section 111.	All Activities will be included
8	Aeronautical services of air traffic management, aircraft operations, ground safety services, groundhandling, cargo facilities and supplying fuel rendered by airports and regulated by the Airports Economic Regulatory Authority under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008);	Not applicable.	No Change	No Impact

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Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
9	Iron and Steel;	7201 to 7229; 7301 to 7326	Word "Iron" is inserted	Iron industry will be specifically covered
10	Roads and other infrastructure projects corresponding to para No. (1) (a) as specified in Schedule VI of the Companies Act, 2013;	Not applicable.	No Change	No Impact
11	Rubber and allied products including products regulated by the Rubber Board constituted under the Rubber Act, 1947 (XXIV of 1947).	4001 to 4017	Words "Being Regulated" is replaced with "including products regulated"	All products under mentioned chapter heading will be covered irrespective of regulated or not.

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Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
12	Coffee and tea;	0901 to 0902	No Change	No Impact
13	Railway or tramway locomotives, rolling stock,railway or tramway fixtures and fittings, mechanical (including electro mechanical) traffic signalling equipment's of all kind;	8601 to 8608	No Change	No Impact
14	Cement;	2523; 6811 to 6812	No Change	No Impact
15	Ores and Mineral products;	2502 to 2522; 2524 to 2526; 2528 to 2530; 2601 to 2617	No Change	No Impact

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Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
16	Mineral fuels (other than Petroleum), mineral oils etc.;	2701 to 2708	No Change	No Impact
17	Base metals;	7401 to 7403; 7405 to 7413; 7419; 7501 to 7508; 7601 to 7614; 7801 to 7802; 7804; 7806; 7901 to 7905; 7907; 8001; 8003; 8007; 8101 to 8113	No Change	No Impact

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Sr. No	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
18	Inorganic chemicals, organic or inorganic compounds of precious metals, rare-earth metals of radioactive elements or isotopes, and Organic Chemicals;	2801 to 2853; 2901 to 2942; 3801 to 3807; 3402 to 3403; 3809 to 3824.	No Change	No Impact
19	Jute and Jute Products;	5303, 5310	No Change	No Impact
20	Edible Oil;	1507 to 1518	No Change	No Impact
21	Construction Industry as per para No. (5) (a) as specified in Schedule VI of the Companies Act, 2013(18 of 2013)	Not applicable.	No Change	No Impact
22	Health services, namely functioning as or running hospitals, diagnostic centres, clinical centres or test laboratories;	Not applicable.	No Change	No Impact

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Sr. No	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
23	Education services, other than such similar services falling under philanthropy or as part of social spend which do not form part of any business.	Not applicable.	No Change	No Impact
24	Milk powder;	0402	No Change	No Impact
25	Insecticides;	3808	No Change	No Impact
26	Plastics and polymers;	3901 to 3914; 3916 to 3921; 3925	No Change	No Impact
27	Tyres and tubes;	4011 to 4013	No Change	No Impact

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Sr. No	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
28	Paper;	4801 to 4802.	No Change	No Impact
29	Textiles;	5004 to 5007; 5106 to 5113; 5205 to 5212; 5303; 5310; 5401 to 5408; 5501 to 5516	No Change	No Impact
30	Glass;	7003 to 7008; 7011; 7016	No Change	No Impact

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Sr. No	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
31	Other machinery and Mechanical Appliances;	8402 to 8487	The words "And Mechanical Appliances" are added and Chapter heading 8402 added	Other mechanical appliances will get specifically covered. All products under mentioned chapter heading will be covered.
32	Electricals or electronic machinery;	8501 to 8507; 8511 to 8512; 8514 to 8515; 8517; 8525 to 8536; 8538 to 8547.	No Change	No Impact

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Sr. No .	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
33	"Production, import and supply or trading of following medical devices, namely:- (i) Cardiac stents; (ii) Drug eluting stents; (iii) Catheters; (iv) Intra ocular lenses; (v) Bone cements; (vi) Heart valves; (vii) Orthopaedic implants; (viii) Internal prosthetic replacements; (ix) Scalp vein set; (x) Deep brain stimulator; (xi) Ventricular peripheral shud;	9018 to 9022	No Change	No Impact

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Sr. No	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)	Change in revised draft rules	Impact
33	(xii) Spinal implants; (xiii) Automatic impalpable cardiac deflobillator; (xiv) Pacemaker (temporary and permanent); (xv) Patent ductus arteriosus, atrial septal defect and ventricular septal defect closure device; (xvi) Cardiac re-synchronize therapy ; (xvii) Urethra spinicture devices; (xviii) Sling male or female; (xix) Prostate occlusion device; and (xx) Urethral stents:"	9018 to 9022	No Change	No Impact

AMENDMENTS:

- Definition : Rule 2 (d)
- “**Cost Audit Report**” means the report duly signed cost auditor’s report on cost records examined and cost statements which are prepared as per these rules, including attachment, annexure, qualifications or observations attached with or included in such report;
- Rule 4(3) The requirement for cost audit under these rules shall not apply to a
- company which is covered in rule 3, and-
- (iii) which is engaged in generation of electricity for captive consumption through **captive generation plant**. For this purpose, the term within “Captive Generation Plant” shall have the same meaning as assigned in Rule 3 of the Electricity Rules, 2005.

AMENDMENT WITH RESPECT TO APPOINTMENT OF COST AUDITOR:

- in rule 6, in sub-rule (1), the following proviso shall be inserted, namely: —

Provided that before such appointment is made, the written consent of the cost auditor to such appointment, and a certificate from him or it, as provided in sub-rule (1A), shall be obtained:

(1A) The cost auditor appointed under sub-rule (1) shall submit a certificate that:-

- (a) the individual or the firm, as the case may be, is **eligible for appointment** and is not disqualified for appointment under the Act, the Cost and Works Accountants Act, 1959 and the rules or regulations made thereunder;
- (b) the individual or the firm, as the case may be, satisfies the criteria provided in **section 141** of the Act;
- (c) the proposed appointment is **within the limits laid down** by or under the authority of the Act;
- (d) the **list of proceedings** against the cost auditor or audit firm or **any partner** of the audit firm pending with respect to professional matters of conduct, as disclosed in the certificate, is true and correct

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- **Explanation:** Before appointment of Cost Auditor, the Board should seek a letter from proposed Cost Auditor confirming his eligibility and willingness of being appointed as Cost Auditor. The Cost Auditor also should mention that the proposed appointment will be within the limits specified in Section 141 of the Companies Act, 2013 and list of proceeding against Cost Accountant with respect to professional matters of conduct, if any.

AMENDMENT WITH RESPECT TO REMOVAL OF COST AUDITOR:

- in rule 6, in sub-rule (3), the following proviso shall be inserted, namely:

—

Provided that the cost auditor appointed under these rules may be removed from his office before the expiry of his term, through a board resolution after giving a **reasonable opportunity of being heard to the Cost Auditor** and **recording the reasons** for such removal in writing:

Provided further that the form CRA-2 to be filed with the Central Government for intimating appointment of another cost auditor shall enclose the relevant Board Resolution to the effect:

Provided also that nothing contained in this sub-rule shall prejudice the right of the cost auditor to resign from such office of the company.”

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- **Explanation:** Cost Auditor may be removed before end of term by passing a Board Resolution. On such removal, Form CRA-2 should be re-filed mentioning details of particulars of new Cost Auditor alongwith a copy of such Board Resolution. Further, Cost Auditor can tender his resignation at any time before end of his tenure.

APPROVAL OF COST STATEMENTS:

- **in rule 6, after sub-rule (3A), following sub-rule shall be inserted, namely:-**

“(3B) The cost statements, including other statements to be annexed to the cost audit report, shall be approved by the Board of Directors before they are signed on behalf of the Board by any of the director authorized by the Board, for submission to the cost auditor to report thereon”

Explanation: Board should approve the cost statements alongwith annexures to cost audit report before submission of the same to the Cost Auditor. After receipt of such approved cost statement alongwith the annexures, Cost Auditor will prepare his Cost Audit Report.

APPROVAL OF COST STATEMENTS:

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Explanation: Board should approve the cost statements alongwith annexures to cost audit report before submission of the same to the Cost Auditor. After receipt of such approved cost statement alongwith the annexures, Cost Auditor will prepare his Cost Audit Report.

SUBMISSION OF REPORT BY COST AUDITOR:

- **in rule 6, for sub-rule (5), the following sub-rule shall be substituted, namely:-**

“Every cost auditor shall forward his **duly signed** report to the Board of Directors of the company within a period of one hundred and eighty days from the closure of the financial year to which the report relates and the Board of Directors shall consider and examine such report, particularly any reservation or qualification contained therein.”

Explanation: Cost Auditor shall submit his duly signed report with a period of one hundred and eighty days from closure of Financial Year to which it relates to the Board of Directors of the Company. Board of Directors shall receive, consider and examine the reservations and qualifications stated in the Cost Audit Report.

FILING OF COST AUDIT REPORT BY THE COMPANY:

- **in rule 6, for sub-rule (6), the following sub-rule shall be substituted, namely:-**

“Every company covered under these rules shall, within a period of thirty days from the date of receipt of a copy of the cost audit report, furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein, in form CRA-4 in **Extensible Business Reporting Language (XBRL) format** in the manner as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting language) Rules, 2015 along with fees specified in the Companies (Registration Offices and Fees) Rules, 2014.”

Explanation: The Board of Directors shall prepare a note providing necessary information and explanation on the reservation and qualifications stated in the Cost Audit Report. Thereafter the Company shall submit Cost Audit Report alongwith such note containing information and explanation in Form CRA-4 in XBRL Format within a period of thirty days of receipt of the Report from Cost Auditor.

THANK YOU !

Contact : CMA Harshad Deshpande,
Practicing Cost Accountant
RCM – WIRC of ICAI

facebook :

harshadde@gmail.com

LinkedIn :

harshadde



WhatsApp