

A Study on Perspective of Forensic Audit and Valuation

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Abstract

Investigations into forensic auditing may reveal or corroborate a variety of unlawful behaviours. If there is a chance that the evidence acquired will be utilised in court, a forensic audit is usually used instead of a regular audit. The forensic audit process is comparable to a standard financial audit in that it involves planning, obtaining evidence, and drafting a report, but it also includes the possibility of a court appearance. In order to discover illegal acts such as syphoning of corporate funds, embezzlement, or fraud, a forensic auditor would need to combine accounting, auditing, and investigative abilities, as well as use technology and knowledge of the legal system to establish facts and evidence in court. Forensic audits are sometimes carried out to evaluate whether persons charged with fiduciary duties have been negligent. Forensic audit investigations are critical because they aid in the detection of business wrongdoings such as embezzlement, bribery, extortion, false transactions, kickbacks, and conflicts of interest. They can also assist in locating or identifying possible fraud. They're vital since fraud, bribery, and corruption cases are on the rise in India, necessitating the hiring of experts to protect and safeguard company interests. In order to combat white-collar crime in India, drastic reforms are required, and forensic audits can help. In this regard, the researcher discovered the importance of forensic audit and conducted this study. Similarly, Valuation as a discipline is growing due to the new regulations under Companies Act 2013, which has opened a new profession for CS – in the form of Registered Valuer, which is essential for company under IBC to get an approval of its resolution plan. The Role of CS is going to be more pronounced with increasing regulations under regulators like IBC, RBI and SEBI. CS as a partner is going to be playing a key role in both these aspects and it is here that the future for a practising CS lies.

Keywords: *Forensic Audit, Fraud Detection. Corporate Fraud, Registered Valuer, Insolvency professional, SEBI regulations.*

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INTRODUCTION

A court audit is a thorough investigation and investigation of a company's or individual's financial records to extract information that can be used in court. In the accounting industry, forensic testing is a specialty, and most large accounting firms have a forensic testing department. Forensic auditing requires accounting and auditing experience and expertise in the legal basis of forensic auditing. Forensic audits include a variety of investigative tasks. Forensic examinations can be conducted to prosecute someone for fraud, embezzlement, or other financial crime. As part of the forensic examination, the auditor can consult as a court expert. Forensic audits may also include matters unrelated to the criminal justice system.

REVIEW OF LITERATURE

Kosmas Njanike & et.al. (2009) The performance of forensic auditing in detecting, investigating, and stopping financial institution crimes changed into determined of their observe. The intention of the observe changed into to decide to what quantity forensic auditors are able to gratifying this mandate, in addition to to look at troubles that save you forensic auditors from progressing of their operations in growing nations. The significance of forensic auditing in banking operations changed into additionally tested. The facts for this observe changed into accumulated thru questionnaires, non-public interviews, and record examination. Thirty forensic auditors from 13 industrial banks, 4 constructing societies, and 4 audit agencies in Zimbabwe have been used withinside the observe. It changed into determined that forensic auditing departments have some of difficulties, one in every of that is a loss of resources.

F. I. Ehigiator, A. O. Enofe, and P. Omagbon (2015) The effect of forensic audit on company fraud in Nigeria changed into investigated on this observe. The observe's intention is to parent out if there is a hyperlink among forensic audit and company fraud. The survey technique changed into used to accumulate enough number one facts, and

questionnaires have been organized and circulated to collect the desired data, with the facts analysed the use of the IBM SPSS Statistics 21 normal least square (OLS) regression technique. Based on statistical research, the observe indicated that the use of forensic audit offerings on a normal foundation will extensively resource withinside the identification, prevention, and discount of fraud in and businesses.

Attempts to classify fraud have tested to be a hard venture for fraud experts. One faculty of wondering divides fraud into occupational and non-occupational categories (Singleton et al, 2006), whilst some other divides it into public and personal area fraud (Comer, 2001). Another faculty, on the alternative hand, labeled fraud in step with the enterprise wherein it changed into dedicated, consisting of financial institution fraud and coverage fraud (Skalah et al, 2001).

Management fraud, insider selling, funding fraud, and different comparable scams, in step with Lendemen (2003), may be divided into company and non-company categories. The banking offerings enterprise changed into the point of interest of this research. From the conventional device of easy cheque fraud, wherein a fraudster might honestly faux his identification on a easy cheque with an normal pen, to extra state-of-the-art approaches, consisting of boost price fraud, which makes use of the Internet and laptop systems, financial institution frauds have advanced in nature and complexity (Singleton et al, 2006).

Skalah et al. (2001) have been capin a position to differentiate among varieties of fraud: insider fraud and fraud dedicated with the aid of using different fraud criminals at the outside. Rogue traders, fraudulent loans, cord fraud, faked documents, identification robbery, and call for draught fraud are only some of the financial institution scams perpetrated with the aid of using insiders. Forgery and changed cheques, stolen cheques, cheque kitting, charge card fraud, booster cheque duplication and browsing of card data high financial institution fraud, fictitious financial institution 'inspector' fraudulent loans applications, impersonation and robbery of identification fraud and boost price fraud, cash laundering, and 'lacking withinside the post' fraud are examples of fraud dedicated with the aid of using outsiders.

STATEMENT OF THE PROBLEM

According to the author, fraud is a hallmark of all organized civilizations around the world and is an anti-business activity that must be dealt with correctly and efficiently. He further explained that the company's success requires a workforce of that is psychologically relevant and reliable with effective management prior to employment. Fraud is considered a virus that spreads from employees of an organization to other economic activities, including government agencies. Therefore, in order for the economy to be stable and balanced, it is necessary to introduce anti-fraud viruses into the system. This completely eliminates fraud. In addition, management and employees need to be vigilant to detect and prevent fraud in the company. The term "forensic audit and corporate fraud" was coined to describe the challenges companies face, especially with regard to corporate fraud. Accountants and legal professionals develop alternatives to address statutory audit failures and increased corporate crime to prevent, detect, and reduce misappropriation of corporate financial and non-financial assets doing. Against this background, this paper seeks to answer the following questions:

1. What is the significance of forensic audit ?
2. Do Forensic Testing Have a Great Impact on Corporate Fraud Prevention?
3. Are regulatory agencies doing enough to curb fraud?
4. What roles the Company secretary can play in the process ?
5. How does Role of CS become crucial in an IBC case ?
6. Role of CS in a transaction audit (PUFE cases) and crucial nature of same under IBC
7. What values CS as professionals can bring to the table that other professionals cannot?
8. Future likely scenario for Company secretaries in the context of profession entering the cusp of Valuation , Forensic Auditing and Arbitration from a practice perspective .

OBJECTIVES OF THE STUDY

Based on the above research questions the following objectives were framed for the present study.

1. Determine the significance of forensic audit.
2. To see whether forensic auditing can help a company prevent illegal activity.
3. To understand the role played by regulators
4. The Role of CS in process of fraud detection
5. The Role of CS in an IBC case
6. Role of CS in transaction audit and its importance
7. Special skills that CS can bring to the table which are more valuable to clients
8. Perspective and picture of a scenario for CS in valuation, Forensic auditing and Arbitration from practice perspective .

SIGNIFICANCE OF FORENSIC AUDIT

- ♣ A court accountant is more than just a calculator that happens to be working on criminal and civil cases. They have a wide range of skills. They need to be able to conduct research, use different computer programs, and communicate effectively. Some court accountants focus on certain fraud-prone areas, such as insurance and banking, and are familiar with the business practices associated with those areas.
- ♣ Court accountants are employed by most major accounting firms and need to investigate mergers and acquisitions, tax and white-collar crimes, support civil proceedings, professional audits, and even terrorism investigations. Court accountants work in many business areas, including public accounting, corporate and government.
- ♣ Associate illegal facts with the application of accounting concepts and methods. The results of quantifiable investigations, including casualty, damage, and resource assessments, are used to assist lawyers in prosecution.
- ♣ Forensic accounting is important for proceedings in a variety of areas, including stock exchange restrictions, value-changing strategies, item risk, shareholder claims, and contract breaches.
- ♣ A court accountant is described as a surveyor, bookkeeper, legal and financial reporting expert hired to investigate potential fraudulent allegations within a company. Or someone who is hired by a company that simply wants to avoid deception. We also provide services in areas such as accounting, antitrust law, tort, investigation, valuation and general advice. Court accountants usually do not provide assessments, but the work done and the reports published often provide answers about how, where, what, why, and who. FA is making progress and will continue to make progress, leveraging innovation to help engagement distinguish between strange and irregular points. Court accountants have all used the pursuit of psychological warfare through separation, protection claims, damages claims, false proceedings, development, sovereignty checks, and investigation of financial records. During audits, many court accountants work closely with legal scholars and legal counsel, often acting as key observers during proceedings.
- ♣ Forensic accounting is a combination of forensic science and accounting disciplines. The need for forensic accountants stems from the organization's review mechanism failing to detect certain flaws in the management framework. Forensic accounting is the type of accounting in which both general and criminal issues are dismantled, tested, questioned, and investigated before a fair and accurate report is produced. Court accounting plays an important role in the investigation of financial fraud and bureaucracy, just as court inspections and laboratory reports are essential to solve the mystery of murder and Dakoit in court. Anyway, forensic accounting covers a wide range of activities, and its misrepresentation is only a small part of the big picture.

REGULATORY LANDSCAPE FOR FORENSIC AUDIT

(A)IBC

With the implementation of the IBC and the CIRP procedure, the Resolution Professional (RP) was granted the authority and freedom to choose whether to request a transaction audit or a forensic audit, as he thought fit. Despite the fact that the IBC makes no mention of forensic auditing, it does allow for the audit and scrutiny of certain types of transactions, depending on whether they are with connected or unrelated parties. The circumstances in which a transaction audit may be performed are likewise up to the discretion of the RP. Furthermore, certain types of transactions can be set aside by the Adjudicating authority if they are deemed preferential, such as undervalued transactions to defraud creditors, extortionate credit transactions, and fraudulent transactions, which can be set aside by the Adjudicating authority on the basis of an application by the entity's Liquidator or RP. Here the role of CS is critical as he can play a crucial role in the process of transaction audits.

(B)RBI

The Forensic Audit also finds reference to fraud committed by unscrupulous borrowers in RBI/2015-16/75 DBS.CO.CFMC.BC.No.1/23.04.001/2015-16 dated July 01, 2015, in the Reserve Bank of India's notification, RBI/2015-16/75 DBS.CO.CFMC.BC.No.1/23.04.001/2015-16 dated July 01, 2015. Here the CS can play a crucial role in the case of banking system –as advisers to banks on specific loan accounts which are on radar for NPAs or suspected of having any foul play.

(C)SEBI

According to a SEBI press release dated PR No 52/2020, SEBI has initiated audits of listed entities and will make disclosures without regard to materiality, including:- i) the initiation of forensic audit (by whatever name called) along with the name of the entity initiating the forensic audit and the reasons for the same; and ii) the initiation of forensic audit (by whatever name called) along with the name of the entity initiating the forensic audit and the reasons for the same. ii) Final forensic audit report (other than those ordered by regulatory agencies), along with management comments, upon receipt by the listed entity. Here again the role of CS is

crucial as he is well exposed to capital markets, Corporate governance and is thus a more preferred person for forensic audit – as he has necessary regulatory requirements and investigative bent of mind and skill sets to perform an audit as may be mandated by SEBI. It is time for SEBI to come out with regulations to empower CS to perform forensic audits also.

(D)SFIO

Under Section 212 of the Companies Act 2013, the SFIO has the authority to launch an investigation into the company's affairs, as allocated by the Central Government. In the case of some groups, such as DHFL, Winsome Group, ILFS, etc. SFIO has also requested forensic audits, and they have experts with multi-disciplinary knowledge, usually from legal, accounting, and forensic departments, who aid to investigate and uncover fraud. Forensic auditing as a discipline has yet to take off, but it should be encouraged and based on certain thresholds, so that once the threshold is crossed, the entity is automatically subjected to forensic auditing – this could be based on any of the parameters like turnover, PBT, or the size of the entity's assets. Again a CS can play a key role in expert witnessing, working as consultant, defending the position of the bank – based on the forensic audit report submitted.

ROLE OF CS IN FORENSIC AUDIT

CS as a professional is increasingly being bestowed with responsibilities of wide ranging nature including accounting, finance, business laws. The equivalence of the CS with other professionals like Chartered Accountant, Cost Accountant, Advocate, has been already an established fact, as can be seen by the various regulations under regulators like SEBI, RBI, IBC etc and to this end in view various certifications are available for CS under the regulations, pursuant to which they can certify and issue their certificates. Besides in the area of Corporate Governance, CS is the only professional who is tasked with the same for regulation and control, and is acting as a sort of representative of the MCA and helps the wheels of the economy, to move ahead in a manner conducive to growth, while at the same time maintaining and following good corporate governance principles.

PRACTICE OF FORENSIC AUDIT FOR CS PROFESSIONAL

- **Detection of employee fraud**

Where an employee engages in fictitious activities and makes false statements, a forensic accountant investigates to see if any benefits were obtained by employees from the defrauded assets, before questioning them and seeking to uncover the hidden truth.

- **Criminal Prosecution**

The administrations of forensic accountants are working on matters involving financial implications. The accountants' report takes into account all of the facts and is created and presented with proof.

- **Settlement with the departing partner**

If the active accomplice is unhappy with his settlement, he can hire a forensic accountant to precisely assess his contribution (resources) and responsibilities.

- **Professional negligence cases**

The forensic accountants take on competent carelessness instances. Non-adherence to Generally Accepted Accounting Principles (GAAP) or aversion to scrutinising the integrity or moral norms of any profession in which they are expected to assess the unhappiness caused by such expert carelessness or deficiency in administrations.

- **Dispute resolution service**

Because they have extensive training in the area of choice question determination, forensic accountants provide assertion and intercession services to the business community.

- **Facilitating settlement regarding motor vehicle accident**

Since a forensic accountant is well-versed in the complexities of regulations governing engine vehicles, as well as other relevant legislation, his administrations are critical in calculating financial loss when a vehicle is involved in an accident.

- **Claims settlement**

Insurance companies work with forensic accountants to get a detailed assessment of instances that need to be resolved. In addition, when policyholders need to fight an insurance company's case settlement, they seek the help of a legal accountant. A legal accountant deals with instances involving large loss arrangement, property loss due to various threats, devotion protection, and other types of protection issues.

- **Dispute resolution**

Contract disputes, development claims, item risk cases, invasion of patent and trademark lawsuits, obligations arising from breach of agreements, and so on are all handled by legal accountants.

- **Cases involving IBC provisions**

Under IBC provisions the concept of Preferential, Unlawful, Fraudulent and Extortionist transactions, can be investigated ,by the IRP/RP as the case may be , in case there is any doubt and the IRP suspects that the specified transactions are likely to fall into any of the above categories . The provisions of IBC however does not call this a forensic audit but a transaction audit only. Be that it may , it opens a large spectrum of activities , transactions which can be investigated by the CS, as he is expert in corporate governance and it helps the corporate greatly to use his skills and experience, in this regard. Besides majority of IBC provisions involved both legal as well as accounting provisions for which the CS is the most appropriate choice, since the CS education, skill, training curriculum has all these duly blended in the course. Additional training also is provided by the ICSI-IPA – wherein the CS members can qualify as a IP and start a practise .

- **Cases involving SEBI provisions**

CS as a professional is empowered to certify under various regulations of SEBI – i) Listing regulation ii) Valuer under SEBI regulations iii) Audit of Capital market intermediaries iv) Reconciliation of share capital audit v) Function as a secretarial auditor vi) Certifications under different rules and regulations of stock exchange vii) Appearance before the SAT . viii) Internal audit of Portfolio managers , Credit Rating Agencies, Depository participants, RTA, Concurrent audit of depositories , audit of research analysts and investment advisor. These roles indicate the preference of regulators to involve a CS whenever a compliance ,and governance road block is met with or it becomes a key issue . By virtue of his training and education he is the only professional who can be charged with the responsibilities .

- **Cases involving Corporate Law provisions**

Under the Companies Act , the CS is a mandated officer for all compliance, governance related responsibilities and is thus playing a key role in all GRC activities. As the economy grows or slows down , the role of CS is crucial and is needed for all aspects like M&A, Bankruptcy, Insolvency and new JV setups etc , which involved a great deal of legal and financial activities . Due diligence for the purpose of M&A can also be a key area for practice particularly in the MSME sectors, where the CS can charge reasonable fees to smaller units, and bring his skill sets to deliver as a one-stop consulting entity , bringing legal, business as well as accounting skills for resolving the issues involved. Already PCS professionals are strongly involved in this sector.

- **Cases involving section 217 – CA 2013, as an Registered Valuer provisions**

In terms of Section 217 of CA , 2013, a Registered valuer only can certify the valuation of corporates , and for this the ICSI , has formed a separate entity called the ICSI –Registered valuer organisation , and a member of ICSI or any other person possessing the specified qualifications can be enrolled as member, take a 50 hr pre-qualification course for the Valuation Examination as mandated by IBBI. On passing the examination and enrolling with the IBBI following the set process , a CS can act as a Registered valuer – for SFA (Securities and Financial Assets) class. In the future the registered valuer is going to be a key person for restructuring , M&A, and related activities . It is therefore expected that CS with his special knowledge of law and finance and accounting would be more suited and desired as a business professional who can give better advise as compared others. Again the opportunities here are high as due to the mandate under CIRP of IBC that the IRP/RP should consider the valuation report from at least two valuers before formulating the resolution plan – this promises much hopes and scope in this direction is huge.

- **Cases involving CS as forensic auditor in a Secretarial Audit**

The Role of CS as a forensic auditor can also be thought of as a role to be played in the context of Secretarial Audit, as this is one area which holds huge potential for role of CS, particularly in view of the fact that many corporates in India are modelled as an LLP, Private Ltd Company, etc, and documenting the activities of these institutions happens in the minutes books and records kept for noting the proceedings and decisions taken at minutes of meetings, either GM, or EGM etc. This is a key and important part due to the fact that many times the minutes are not exactly and accurately recording the proceedings of the meetings, or are not quantifying the facts clearly , which can be detrimental to the interest of external stake holders like Banks, Financial Institutions, other NBFCs etc .However minutes are treated as important documents in an evidence procedure before court and provides the primary record of who has played what role and this helps in effective prosecution in case of frauds happening in the entities. GRC is also an area where CS can play a crucial role as he is the compliance officer and advises the board and directors and has a good knowledge of risks arising in the process, due to control weakness. As such CS would be more suited for the task, of providing a limited forensic audit report also in addition to a secretarial audit report and can help attain competencies in the process, and provide best services, which other professionals may not be able to provide. In case the limited forensic report indicates serious issues present in the organisation ,this can be followed by a full-scale forensic audit , and if this is approved it is believed would strengthen the controls present in organisations.

OPPORTUNITIES FOR OUTSOURCING IN GRC ACTIVITIES

The CS as a professional can also enter into outsourcing contracts with SMEs, MSMEs, related to GRC activities in other economies and help to create a new order in the form similar to KPO/BPO and this can create new opportunities , where entities can learn best global practices, and provide professional services to growing

start-ups too. Start-up related compliance, GRC activities are expected to increase as the growth pace picks up in India for the technology sector and the role of CS in this area appears to be crucial and well poised to make a major difference in the way corporate governance may be managed and give confidence to overseas investors and improve the governance climate which has been of late lagging.

CAPACITY BUILDING AND SKILL BUILDING FOR ENHANCEMENT OF CS IN PRACTICE

- Create capacities in new areas like forensic and digital forensic sector where CS can be trained to impart services and values to corporates, MSMEs and entities
- Tie-up with national level institutions –like NISM for certification in Forensic audit , and international associations like Certified Fraud Examiner , US- so that the Practicing CS gets a good grip on skills needed for these opportunities . with economy going digital , the requirement for digital forensics is going to increase and the ICSI can make good use of this opportunity by re-skilling its members suitably , by including and changing the curriculum to current needs
- Technology orientation for CS professionals and enabling them to use the specific software for both forensic audit and valuation exercises .
- Provide skillsets to value intangibles in line with global valuation standards – IVRS, and RICS standards which are going to be crucial in future for practise.

VALUATION AS A PRACTICE AREA FOR CS

The role of CS in valuation of services and intangible assets is likely to go up as Indian economy move towards patents, intangibles etc as a result of new skills imbibed by the workforce particularly in the Tech sector. With the role of AI, Deep learning , and Automation programs going up the valuation aspect of a business will need more than mere theories and it is here the role of CS is important in taking the appropriate skills to the next level. Key areas are likely to be valuation of software programs, AL algorithms, new process and patents etc which has commercial values of a high order. The CS would have to be assisted by the ICSI to perform valuation of intangibles which are going to have a major value in the future . In addition the IBC will also promise lot of valuation opportunities for CS but being a regulated area, strictly speaking the legal implications would appear more pronounced and the CS would have to be very well familiar with the NCLT and NCLAT rulings which affect valuations in the IBC process. .

FUTURE SCENARIO

In the future, forensic accounting and auditing will almost certainly become mandatory, necessitating the development of professionals in this field. In India, the ICAI is currently offering a certificate in forensic auditing and fraud detection, while other institutes like as the ICAI and the ICSI are also working to improve capacity among their members. However, unlike statutory organisations, there is no national level certification accessible. CFE - Certified Fraud Examiner - is the globally recognised credential for a highly trained professional who may testify in court as an expert witness in an inquiry. Educational institutions must immediately form partnerships with overseas institutions of repute in order to increase professional competence at the undergraduate and graduate levels. The best bet would be to enrol in an independently recognised PG programme in Forensic Accounting and Auditing, and the ICSI already has a PQC in forensic audit for building capacity of its members. There has been a plethora of cases where forensic audits have been ordered by SEBI, and it is in this regard that the CS can play a crucial role in the process .

SUGGESTIONS

- ♣ As an administrative function, forensic auditing plays a part in the overall protection of bank assets. Forensic auditors are tasked with detecting any potential bank fraud and, if necessary, conducting investigations into the cases at hand, or at the very least suggesting effective measures to avoid such frauds from occurring. This can be effective in situations where the environment allows them to carry out their mandate by employing existing detective and investigative skills to combat bank fraud.
- ♣ The majority of forensic auditors come from the police force, with a handful from the banking industry. To analyse complicated fraud situations, forensic auditors are neither professionally or academically equipped. Being the best teacher with experience, the simplest bank fraud is successfully resolved and the practitioner is prosecuted.
- ♣ The majority of forensic auditors have more than 5 years of experience and are trained in-house. Bank fraud can range from complex and difficult to detect and investigate, to simple and easy to find and investigate, to complex and difficult to detect and investigate. Computer-related crimes, or crimes that use computers as a route of fraud, are one of the most difficult crimes to detect and investigate.

CONCLUSION

Harshad Mehta, Ketan Parekh, Sanjay Seth, and the late India bulls' outrageous tactics are still vivid in our minds. Whether it's stock exchange extortion, bank fraud, or internet crime, scientific accounting has become an indispensable tool for investigation. In today's society, the need, role for a forensic accountant becomes even more important. Accountants are trained evaluators, and assessors of legal and financial records who are used to investigate and prevent fraudulent activity, alongside with other professionals in IT, digital technologies, Cyber security. They also provide accounting, damage, and examination of administrations. Forensic Accountants play an important role in insurance planning, extortion claims, development, distribution rights auditing, and detecting fear mongering through budgetary articulations.

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