

Chapter 12 – LIABILITIES OF AUDITOR

LIABILITIES UNDER COMPANIES ACT, 2013

LIABILITIES UNDER INCOME TAX ACT, 1961

CRIMINAL LIABILITIES

CIVIL LIABILITIES

Sec. 34	<p>Criminal liability for mis-statements in prospectus</p> <p>Where any prospectus is issued or circulated or distributed, which includes any statement which is untrue or misleading or where any inclusion or omission of any matter is likely to mislead, then every person who authorises the issue of such prospectus shall be liable u/s 447 (fraud).</p>
Sec. 448	<p>Criminal Liability for making false statement</p> <p>If in any return, report, certificate, F.S., prospectus, statement or other document under this law, any person makes a statement,</p> <p>(a) which is false in any material particulars, knowing it to be false; or</p> <p>(b) which omits any material fact, knowing it to be material,</p> <p>he shall be liable under section 447.</p>
Sec. 447	<p>Punishment for Fraud u/s 447</p> <ul style="list-style-type: none"> Any person who is found to be guilty of fraud (Atleast ₹ 10 Lacs or 1% of turnover whichever is lower), shall be punishable with imprisonment for a term 6 months to 10 years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to 3 times the amount involved in fraud. Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than 3 years. Where the fraud is less than lower of ₹10 Lacs or 1% of turnover and does not involve public interest, fraud shall be punishable with imprisonment upto 5 years or with fine which may extend upto ₹20 lacs or both.

Sec. 35	<p>Civil liability for mis-statements in prospectus</p> <p>Where a person has subscribed for securities of a company acting on any statement included, or the inclusion or omission of any matter, in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person who—</p> <p>(a) is a director of the company at the time of the issue of the prospectus;</p> <p>(b) has authorised himself to be named and is named in the prospectus as a director of the company, or has agreed to become such director, either immediately or after an interval of time;</p> <p>(c) is a promoter of the company;</p> <p>(d) has authorised the issue of the prospectus; and</p> <p>(e) is an expert,</p> <p>shall, be liable to pay compensation to every person who has sustained such loss or damage.</p>
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Sec. 288	<p>Disability as to represent the assessee</p> <ul style="list-style-type: none"> A person who has been convicted of any offence connected with any Income Tax proceeding or on whom a penalty has been imposed under the said Act is disqualified from representing an assessee. CA found guilty of professional misconduct by the Council of the ICAI, cannot act as a representative for such time that the order of Council disqualifies him from practising.
Sec. 278	<p>Any person who acts or induces, in any manner another person to make & deliver to IT Authorities a false account, statement, or declaration, relating to any taxable income which he knows to be false or does not believe to be true is punishable:</p> <ul style="list-style-type: none"> with imprisonment from 6 months to 7 years & fine if the tax evaded or attempts to be evaded exceeds ₹ 25 Lacs. with imprisonment from 3 months to 2 years & fine if the tax evaded or attempts to be evaded is up to ₹ 25 Lacs.
Rule 12A	<ul style="list-style-type: none"> A CA who as an authorised representative has prepared the return filed by the assessee, has to furnish to A.O., particulars of a/cs, statements and other documents supplied to him by the assessee for the preparation of the return. Where the CA has conducted an examination of such records, he has also to submit a report on the scope and results of such examination. If this report contains any information which is false and which the CA either knows or believes to be false, he would be liable to rigorous imprisonment which may extend to seven years and to a fine.
Sec. 271J	<ul style="list-style-type: none"> For incorrect information in any report or certificate furnished under this Act or Rules, the A.O. or CIT (Appeals) may impose a penalty of ₹ 10,000 for each such report or certificate.