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FORENSIC ACCOUNTING: AN INSTRUMENTAL TO PREVENT FRAUDS

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Abstract

Authenticated financial statements presenting true and fair view plays a significant role in the financial decision making of every stakeholder of the company. Though with 45 industrial sectors booked the economic growth rate of 8.2% in the year 2024, expecting India as one the top three economic power, financial scamps in the history cannot be overlooked. Corruption, conspiracy, embezzlement, money-laundering, bribery and extortion have increased. Forensic accounting can be a tool to resist such frauds in the corporate industry so that interest of all related parties can been secured. This paper presents the brief discussion of various laws, statutes national and international to curtailing fraudulent practices. Also discusses the types of frauds and elaborates it with the examples of frauds in the Indian history. Author has suggested Forensic audit as an emerging exploratory tool to be practiced by the corporate.

Keywords: Forensic accounting, financial fraud, scam, investigative skills, white collar crimes

Introduction

While examining the books of accounts of any company or an individual, auditors are required to narrow down with evidences in case of any possibilities of mal practices. Such practices are nothing but a forensic audit. Forensic audit is the evaluation and examination of the financial records. It is nothing but identifying unlawful behaviour. Producing evidences after thorough investigation of financial statements of any company will be useful for legal proceedings. A forensic auditor is expected to have expertise in the area of accounting and auditing process. Along with extensive knowledge of accountancy and audit, they need to be well acquainted with regulative structure of forensic auditing.

It's a systematic process aimed at gathering and delivering evidences to the court of law. Apart exploring the intent behind such scams is equally important. The involvement of the parties in committing fraud and putting efforts to remove the evidences of the fraud needs to be investigated. Any irregularities if observed, forensic auditor needs to take a call on gathering evidences by investigating the realities. They need to reach to the root cause of the fraud, monetary volume involved.

Meaning of Forensic Accounting

Forensic accounting is basically associated with two different identifying terms, namely forensic and accounting. Initially, a public open court was held in Rome which is known as "of the forum", which is synonyms of the word forensic, a Latin word. Anything that looks to the law and deals with evidence is known as forensics. And there is another term, accounting, which is very well understood by a person from a commercial background to record financial transactions in the books of accounts to know the results and status of the business. Forensic accounting, if briefly understood, is the process of creating legal documents based on accounting principles to solve a financial crime or dispute.
According to the AICPA, "Forensic accounting is the application of accounting principles and investigative skills to legal disputes. It involves collecting, analyzing, and evaluating evidence to interpret and communicate findings in legal or administrative settings."

From the above definition and explanation of forensic accounting we can derive the following features of it.

- Forensic accounting is a new branch of accounting which is emerged due to the increment of white color crime.
- Forensic accounting is a procedure comprises the concept of accounting, auditing and investigation, legitimate background and information technology.
- Forensic accounting is a preventive tool with the help of which anyone can prevent the proposed financial fraud.
- Forensic accounting is not only preserves the quantitative loss of finance but also look after the qualitative aspects like morale, ethics, trust, reputation etc.
- Forensic accounting is an objective process with a predetermined objective.
- Confidentiality is a key feature of forensic accounting.
- The process of forensic accounting has been held by forensic accountant independently.
- Forensic accountants are careful to talk to suspects formally so that they do not reveal that they are suspects.
- Ethical conduct is in foundation of forensic accounting which is by no means non-negotiable term.
- Effective and clear communication of evidence gathering report is a skill of this process.

Review of Literature

1. **(Dhami, 2015)**The paper titled "Forensic Accounting: Signaling Practicing Accountants to Improve Skillset and Forming Regulatory Body for Forensic Accountants in India", has portrayed the detailed information regarding the most limelight issue in India, that is, Forensic Accounting as financial fraud called the white collar crime, has been increased now a day. Besides it also provides some prevention steps of fraud in the name of suggestions. The paper comprises the basic points like historical perspective, qualities of forensic accountant, tools and techniques of forensic accounting. At last an author has tried to conclude that it is high time to form a regulatory body of forensic accountant and to implement forensic accounting strictly in India like other countries, as a prevention tool of theft, corruption, conspiracy embezzlement, money-laundering, bribery and extortion as far as finance and accountancy is concerned.

2. **(Krishan Lal Grover, 2017)**It is an informative paper of basic concepts of the forensic accounting. In the paper, authors have tried to give profound knowledge of requirement of forensic accounting in India. Further, this paper includes the major points like types of frauds, role of forensic accounting in fraud; major scams have taken place in India and different services rendered by forensic accountant.

3. **(Chaturvedi, 2015)**This is the another paper which has discussed the list of white collar crime like, Harshad Mehta (1992), Satyam Computers (2009), Ketan Parekh (2008), Kingfisher Airlines Credit Card (2007) etc., have been taken place in India. With the help of these examples, an author has tried to explain that how much forensic accounting is important to implement in India. Secondary data of Percentage of companies affected by varieties of frauds and percentage of companies describing themselves as highly vulnerable in various frauds have been presented in tabular and graphical form and concluded that India has already faced substantial losses due to rapid increase in white-collar crimes and the belief that our law enforcement agencies do not have sufficient expertise or the time needed to uncover the frauds. Furthermore, an author has also suggested the scope of further research in this field.

4. **(Dr. M Muniraju, 2023)** This is the paper of forensic accounting with respect to cyber fraud where authors have depicted that employees are more precious asset of any organizations. They also become the part of investigation process regarding the cyber fraud irrespective of their

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designation. Authors have taken primary data through questionnaire and apply Convenience Sampling as statistical tool for the study. The study has concluded that there is a negative impression of it on the employees as they offended if their work is examined in a suspicious angle. Further, employees those are technically sound, are treated as culprits and refuse to cooperate in this process.

5. **(Ashwin R, 2018)**Health South, Enron, TYCO International, Freddie Mac and WorldCom, these 5 companies of different industries has been studied by authors in this paper in the context of their financial fraud and its detection through forensic accounting. Not only that but this paper also reveals the position of the stock price and reputation of the companies in pre and post detection. At last, authors have concluded that forensic accounting has played very vital role to detect such frauds and helps in stabilizing the stock market by reduce such financial frauds. They also add in conclusion that dealing with large data and complexities of financial are challenging where forensic accounting is not a solution for all.

6. **(Vivek Kumar Sindhi, 2023)** In 2022, Association of Certified Fraud Examiners, (ACFE), has revealed that India has occupied the first rank in the teams of number of fraud cases in South Asian Nations. As per the study, there were 103 financial fraud cases have been recorded in the name of India, which was highest among all neighbor countries. With this authors have discussed the significance to introduce forensic accounting in India, indulging the points like evaluation of forensic accounting in India, various techniques used for it and forensic accountant as a future career opportunity.

7. **(Das, 2020)**This paper is descriptive in nature where an author has made a very genuine attempt to explain forensic accounting and its applicability in India. With the help of taking secondary data, he has nicely portrayed the various aspects like perspective of forensic accounting, practice and techniques of forensic accounting, types of fraud, implementation of forensic accounting in India, fraud model, role of forensic accountant, especially in India, and problem faced by forensic accounting in India. At last he has concluded that even though the Government of India has positively initiated various bodies like SFIO, CFAP, CAME etc., there is miles to go to formulate the proper structure of forensic accounting. For betterment of application of forensic accounting in India he has also recommended some useful points in the paper.

8. **(Kumar, 2021)** This paper titled, "Impact of Forensic Accounting on Indian Industry" have revealed the truth that Forensic accounting is not only a case of detecting fraud after it has occurred but also helps to prevent any unwanted fraud in advance.The innovations used by law breakers and fraudsters are constantly changing and forensic accounting needs to be at the top of their game to prevent and identify these fraudulent practices. To justify his study, he has taken secondary as well as primary data of 100 respondents and apply t-test as a statistical tool.

9. **(B, 2023)**Due to the rise of financial fraud in various sectors like Bank, Insurance, Stock Market, Cyber world, etc., here, an author has written this exploratory research paper, which highlights the importance of forensic accounting. In this paper history, techniques, application of forensic accounting as well as the prevalence of forensic accounting in India understood by related laws prevailing in India regarding forensic accounting, major scams in India, agencies dealing with frauds in India, present scenario of forensic accounting in India and challenging faced to implement forensic accounting. At last like the other papers, he has also emphasis the argument in favor of introducing forensic accounting in India without delay.

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10. **(Vyas, 2023)**This paper has exploratory in nature in which types of fraud and techniques of forensic accounting have been explained in-depth to prevent the fraud so that global as well as Indian economy will have become stable to sustain the interest of market place.

11. **(Mr. Pema Lama, 2018)**Companies like ENRON, WORLDCOM, SATYAM, etc., have set the negative impression in the market by fraudulent financial reporting. With a view to prevent the interest of investors and for healthy economy environment, it becomes necessary to break such kind of malpractices in the world of accounting, forensic accounting- a new concept have been emerged. An author has put genuine efforts to understand the conceptual framework of financial and corporate frauds by gathering secondary data. He has also examined the applicability of forensic accounting in investigating corporate frauds and scams in India. To support his research, he has represented approx. 12 cases of frauds at global level. Further, in India, there are 17 cases of different kind of fraud has been explained in this paper. At last, suitable preventive measures of fraud, recommendations and conclusion have been provided by author to support forensic accounting.

12. **(Jangid D. H., 2023)**This research article has presented the knowledge of forensic accounting, its scope, steps, role of forensic accountant and future aspects in depth. This articles has revealed the brief of scams of last 22 years and has concluded that forensic accounting is a tool with the help of which forensic accountant has identified and reduce the scams of the companies easily.

13. **(Arora N. A., 2021)**This is a paper where authors have tried to explain the existing laws, nationally as well as internationally, to prevent the frauds and malpractices in corporate world. They have explain that such kind of malpractices have negatively affected to the moral ethics, trust and image of the company as well as its country. At last they have highlighted and suggested that there should be a body that helps prevent such frauds in the first place and works to stop them before they happen.

Glimpses of Frauds In India

It was year 1992, Mr. Harshad Mehta, was the very first to attempt scam by manipulating stock prices and volumed Rs.4000 crore fraud. Later the courage to commit frauds raised extensive and could resulted in Ketan Parekh scam and Scam of Stamp Paper by Telgi of Rs.40000 crore and Rs.30000 crore respectively. Satyam Computers scam amounting to Rs.7800 crores by inflating the cash, bank balances and profitability artificially. 2G Spectrum and Commonwealth Games scams of the year 2010 amounted the fraud to Rs.70000 crores in both the cases. Rs.1875 crores loan sanctions to Videocon by Chanda Kochar, CEO of ICICI Bank was an illustration of undue advantages of powers and authorities. Non-existence of import payments led the fraud of Rs. 6000 crores in the year 2015 Bank of Baroda bank officials. A person Chartered Accountant by profession was even involved in the fraud of Rs.1000 crores with untruthful cheques, letter of undertakings and Life Insurance policies known as Syndicate Bank scam in the year 2016. It has happened twice with Syndicate Bank when both time, Chartered Accountants only attempted fraud resulted into a fraud of Rs. 8000 crores. Liquor king Vijay Mallya accused for the fraud of Rs. 9000 crores and it was a height when a group of seven banks were defeated together amounting the scam to Rs. 3695 crores. It was year 2018, when this happened, prior to that the same has witnessed by Bank of Maharashtra with an involvement of their senior official named Padmakar Deshpande. The scam led to Rs. 836 crores. Vikram Kothari led Rotomac scam of 2018, PMC scam amounting Rs. 4355 crores of 2019, Nirav Modi with his uncle Mehul Choksi defeated Punjab National Bank for Rs.14000 crores with fake letter of undertaking have hard-hit banking sector. The master stroke was then when the consortium of 28 banks was defeated for Rs.22,842 crores by ABG Shipyard in the year 2022. If observed thoroughly manipulation has taken place majority with banking sector with the help of internal authoritative officials.

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The corporate world though growing and creating marvelous opportunities is also found forbidding and dishonest in its practices. There, forensic auditors have critical role to play to safeguard the business houses and all supporting financial institutions' interest and to defend their rights. To curb such misappropriations, dishonesty, deceptive practices, manipulations, falsified actions, misguiding moves and transactions, various lawbreaking proceedings, and activities are carried out by the Forensic Auditors.

Objectives of the Study

1. To understand the concept of Forensic Accounting and Audit
2. To understand the scope of word "Fraud"
3. To understand various international and Indian statutes, laws that governs and assist the process of forensic auditing.
4. To get the overview of scams in India
5. To understand various international and Indian standards, laws, and precedents that forms the foundation for forensic auditing.

Statutory Definitions of Fraud

Section 17 of Indian Contract Act, 1872

" 'Fraud' means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent', with intent to deceive another party thereto or his agent, or to induce him to enter into the contract: —

(1) the suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
(2) the active concealment of a fact by one having knowledge or belief of the fact;
(3) a promise made without any intention of performing it;
(4) any other act fitted to deceive;
(5) any such act or omission as the law specially declares to be fraudulent."

RBI has defined the term Fraud as under

"A deliberate act of omission or commission by any person, carried out in the course of a banking transaction or in the books of accounts maintained manually or under computer system in banks, resulting into wrongful gain to any person for a temporary period or otherwise, with or without any monetary loss to the bank."

As per Section 447 of Companies Act, 2013

" 'Fraud' in relation to affairs of a company or anybody corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss. 'Wrongful gain' means the gain by unlawful means of property to which the person gaining is not legally entitled. 'Wrongful loss' means the loss by unlawful means of property to which the person losing is legally entitled."

As per Fraud Act, 2006

"The offence of fraud under the Fraud Act 2006, may be committed by:

(a) dishonestly making a false representation – **Section 2** (to a person, or to any system or device) with a view to gain or with intent to cause loss or expose to a risk of loss;

(b) dishonestly – **Section 3** (and with a view to gain or with intent to cause loss, etc.) failing to disclose information when under a legal duty to disclose it; or

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(c) dishonest abuse of position, with a view to gain or to cause loss, etc. – **Section 4.** It is irrelevant whether gain, loss or exposure to loss actually occurs."

Statutes Regulating Frauds Internationally and Nationwide

The United Kingdom Bribery Act, 2010

As per The United Kingdom Bribery Act, 2010 which was enacted on 1st July, 2011, failing to discourage the bribery will be charged as crime. Indefinite amount of penalty with ten years of imprisonment (maximum) is the punishment of fraud under this act. According to this Act, following different sections are included-

- Bribing another citizen
- Being bribed
- Bribing a foreign public official
- Failing by a commercial organization to prohibit bribery.

Foreign Corrupt Practices Act, 1977 (FCPA)

The act applies to the whole of world for corruption and bribery. The act is applicable to publicly traded companies, their employees, directors, executives, stakeholders, agents, shareholders. As per this Act any foreign company or any individual directly or indirectly with its intermediaries, if assists facilitation or execution of any payments proved corrupt in the territory of United States are punishable. Convicted parties may be punished with an imprisonment of 25 years for every offence and a penalty up to 5 million dollars.

The Sarbanes-Oxley Act, 2002

Two major scandals, Enron and WorldCom made US Government to enact this Act in the year 2002. The enactment was with an intention to regain consumer trust on US companies and the financial markets. It has tightened the provisions of transparency and increased the amount of fine in case of fraudulent accounting practices. The following tough going provisions were included.

- Every five years, companies need to change their audit partners.
- Use of audit committees to be expanded
- Companies to include internal control system
- It is required that no more than two Board members can be CPA
- Raised criminal penalties for the securities fraud

United Nations Convention

United Nations Convention is anti-corruption instrument passed by the United Nations General Assembly on 31st October, 2003. It came into effect from 14th December, 2005 and it recognized universally. It is passed against the corruption as all-inclusive response to the corruption related issues globally. The issues like misuse of power, bribery, corruption with certain preventive measures, technical aid and knowledge, international collaboration, criminalization, law enforcement are covered by this convention. And the penalty will go parallel with the respective country's rule.

The Companies Act, 2013

According to Section 143 (12) and Rule 13 of the Companies Act 2013, "if an auditor has reason to believe that the client is committing fraud while performing his audit, the auditor must notify the board or audit committee within two days of becoming aware of the fraud, and the report must include the nature of the fraud, the approximate amount, the parties involved, and an explanation is also required to include some specific information in the board's report, such as the extent of the fraud, its description, the parties involved, and the remedial action taken, among other things."

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Serious Fraud Investigation Office (SFIO)

The main of establishing Serious Fraud Investigation Office was to establish a body having multidisciplinary expertise capable to tackle serious and multifaceted corporate issues and frauds those assigned under the Section 212 of Companies Act, 2013. It was founded by the Ministry of Corporate Affairs, the Government of India. The founding moto was to detect and prosecute white-collar frauds. It has an expertise in the area of forensic auditing, law, banking, accountancy, investigation, information technology, taxation, capital market and company law. When the Government of India is of opine to inspect into the affairs of any company, it is assigned to SFIO. On receipt of report under section 208 of the Companies Act, 2013 from the Registrar, receipt of special resolution passed to investigate affairs of company, for public interest, and on request from Central or State Government's department, Ministry of Corporate Affairs may intimate SFIO to initiate their actions.

Indian Penal Code 1860

The Indian Penal Code is a significant criminal code of India. It comprehends all the criminal laws. Though "Fraud" is defined in the code, the terminologies like dishonesty, fraudulently, wrongful loss, wrongful benefit are defined under the Indian Penal Code.

Every aspect related to fraud and fraudulent action and offences like misappropriation, breach of confidence, mischief, Impersonation, inappropriate calculations, adultery, theft are inclusive in this code. According to this, under Section 168, any public servant found guilty in any unauthorized and unlawful transaction, will be imprisoned for a period up to one year, fine or both. The provisions related to bribery and cheating are explained in Section 171B and 417 respectively

Indian Evidence Collection Act, 1872

This is one of the very important legislations passed by the Imperial Legislative Council of the British Raj. Evidence has a power to prove anything true be recognized in the court of law. It is mentioned in the act that the admissibility, relevancy both logical and legal and weight must be present in the evidence or proof presented. The proofs can be in the form of oral testimony and documentary evidences. Any evidences in the paper form even in electronic form is documentary evidence as per Indian Evidence Collection Act, 1872.

ICSI Anti Bribery Code

Corporate Anti Bribery Code is well thought enforcement to contribute as a responsible professional for promoting and establishing accountable and transparent governance in India. It is a move of the Institute of Company Secretaries of India for strengthening the movement of eradicating fraud. It was introduced on 4th October, 2017 to ensure that every company adopting this code will ensure that nor the company itself and any of its members, officials engage in bribery. It's a voluntary for companies to adopt and enforce. If adopted should be enforced and applicable to the company, employees, consultants, Board of Directors, advisors, intermediaries, representatives, agents, consultants, vendors, contractors, suppliers and all related to the company in any capacity.

Fugitive Economic Offenders Act (2018)

The Fugitive Economic Offenders Act, 2018 resulted existence due to banking frauds. Under this Act, the permission was granted to courts to seize all properties and assets of culprits convicted the evasion of the fraud more than of Rs.100 crores. Even those who attempts to evade the charge willfully are also considered under this to seize their properties.

Enforcement Directorate (ED)

The Directorate of Enforcement is a multidisciplinary organization operated under the Department of Revenue, Ministry of Finance, Government of India. It is organized to investigate the

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offences of money laundering and foreign exchange laws violation. The enforcement of the following mentioned statutes is included under Enforcement Directorate.

1. The Prevention of Money Laundering Act, 2002 (PMLA)
2. The Foreign Exchange Management Act, 1999 (FEMA)
3. The Fugitive Economic Offenders Act, 2018 (FEOA)
4. The Foreign Exchange Regulation Act, 1973 (FERA)
5. Sponsoring agency under COFEPOSA

Enforcing all these acts, ED is fighting the economic crimes in India on multifaceted platforms. Observing the need and need to safeguard country's goodwill and credibility, demonstrating forensic audit is highly relevant. And it has been practiced in solving majority of the frauds taken place in banking industry.

Forensic Accounting and Investigation Standards (FAIS), 2023

Digital Accounting and Assurance Board (DAAB) of ICAI is the first in the world to introduce Forensic Audit and Investigation Standards (20 standards) on 1st July, 2023. The frauds like Enron, Satyam Computers, Bhushan Steel and their enormous impact on the Indian economy surged forensic accounting, forensic audit and investigation. Chartered Accountant are the responsible and authoritative part of this duty in the industry. Uniformity and transparency of standards to be kept in practice is one the objective behind this initiative. Forensic Accounting and Investigation Standards are the principles, minimum requirement, expected quality of services, a guidance while conducting the forensic accounting and auditing assignments at any entity. Apart, ICAI has also issued a direction and guiding note on reporting fraud covered under section 143 (12).

Conclusion

The frauds in Indian corporate history evidences the malicious intent of various parties engaged in the fraud. It's a challenge for any economy to curb such fraudulent intentions and actions. Various regulations are even enacted and mandated at all possible frontier to control, prevent, reduce and hold on financial scams and frauds. It is observed that well educated, white collared executive levelled officials, corporates, authorities were engaged in the voluminous frauds in Indian banking and corporate sector. Here arises a question of one's integrity, honesty, trustworthiness. And it is an observed fact that no fraud took place in a single day. It's a well-organized, well thought, well planned and well executed acts. Its greed, its malicious intent, value system, and a poor understanding of ethical and unethical practices can only lead one to be fraudster.

Something dense should be thought to educate a human being to have morally responsible, truthful, trustworthy, and honest behaviour. It should be a moral responsibility of every individual on this earth to imbibe moral values in the mind and heart of every individual.

If frauds are detected at early stage, or before they take place, it will save economy, money, respect, goodwill and credibility of the nation. Forensic audit is the best solution for early exploration of the fraudulent actions. Forensic Auditor being a responsible part of this industry should be well acquainted with the knowledge of all these statutes and provisions.

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