A STUDY ON FORENSIC ACCOUNTING, FRAUD AND FORENSIC ACCOUNTANT

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ABSTRACT:

The purpose of this paper is to study Forensic Accounting and Fraud. Forensic accounting is hardly a new field, but in recent years the increased number of frauds and the powerlessness of the authorities to combat them have brought the Forensic Accounting in the limelight. Forensic accounting is the specialty practice area of accounting that describes engagements which result from real or anticipated litigation. Forensic accounting is very important tool to detect, investigate and prevent the frauds. Forensic accounting in India has come to limelight only recently 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 frauds. This paper focuses on the conceptual framework, various provisions and applicability of forensic accounting in investigating corporate frauds and scams in India.

KEY WORDS: Forensic Accounting, Forensic Accountant, White-collar crimes.

INTRODUCTION:

The integration of accounting, auditing and investigative skills yields the specialty known as Forensic Accounting. Forensic, according to the Webster's Dictionary means, Belonging to, used in or suitable to courts of judicature or to public discussion and debate. Forensic Accounting, provides an accounting analysis that is suitable to the court which will form the basis for discussion, debate and ultimately dispute resolution. Forensic Accounting encompasses both Litigation Support and Investigative Accounting.

As Forensic Accountants, we utilize accounting, auditing and investigative skills when conducting an investigation. Equally critical is our ability to respond immediate and to communicate financial information clearly and concisely in a courtroom setting. Forensic Accountants are trained to look beyond the numbers and deal with the business reality of the situation.

Forensic accountants may be involved in recovering proceeds of crime and in relation to confiscation proceedings concerning actual or assumed proceeds of crime of money laundering. In the United Kingdom, relevant legislation is contained in the Proceeds of Crime Act 2002. In India there is a separate breed of forensic accountants called Certified Forensic Accounting Professionals. In other countries, some forensic accountants are Certified Fraud Examiners, Certified Public Accountants with AICPA's Certified in Financial Forensics (CFF) Credentials, Chartered Accountants or Chartered Certified Accountants.

Forensic accountants utilize an understanding of economic theories, business information, financial reporting systems, accounting and auditing standards and procedures, data management & electronic discovery, evidence gathering and investigative techniques, and litigation processes and procedures to perform their work. Forensic accountants are also increasingly playing more proactive risk reduction roles by designing and performing extended procedures as part of the statutory audit, acting as advisers to audit committees, fraud deterrence engagements, and assisting in investment analyst research.

While Forensic Accountants usually do not provide opinions, the work performed and reports issued will often provide answers to the how, where, what, why and who. The FAs have and are continuing to evolve in terms of utilizing technology to assist in engagements to identify anomalies and inconsistencies. It is important to remember that it is not the Forensic Accountants that determine fraud, but instead the court.

OBJECTIVES OF THE STUDY:

The objectives of the present study are as follows-

1. To understand the conceptual framework of Forensic Accounting.
2. To examine the applicability of forensic accounting in investigating corporate frauds and scams in India.
3. To analyze the extent of loss from Financial and Corporate frauds.

FORENSIC ACCOUNTING:

The term 'forensic accounting' was first used in 1946 by Maurice E. Peloubet, a partner in a New York based accounting firm. The word forensic is derived from the Latin word 'forensis', meaning thereby belonging to the forum (the site for public discussion and debate in ancient Rome). It refers as assistance in disputes regarding allegations or suspicion of fraud which are likely to involve litigation, expert

determination and enquiry by an appropriate authority and investigations of suspected fraud, irregularity or impropriety which could potentially lead to civil, criminal or disciplinary proceedings.

Forensic Accounting assists an organization in legal matters in two ways –

1. Investigative Accounting deals with the investigation of criminal matters relating to employee theft, securities fraud, insurance fraud etc. and also includes provisions and suggestions regarding possible courses of action.
2. Litigation Support involves the quantification of the amount of economic damages and also providing accounting assistance in litigation matters.

FRAUD:

'Financial statement fraud is a deliberate attempt by corporations to deceive or mislead users of published financial statements, especially investors and creditors, by preparing and disseminating materially misstated financial statements' (Rezaee, 2005: 279). An extensive literature on fraud exists (e.g. Apostolou et al, 2000; Rezaee, 2005; Ozkul and Pamukcu, 2012, etc.). Jointly, the literature shows some consensus that fraud may involve:

1. The alteration or manipulation of material financial records, supporting documents, or business transactions.
2. Intentional misstatements, omissions, or misrepresentation of events, transactions, accounts or other significant information from which financial statements are prepared.
3. Deliberate misapplication and misinterpretation of accounting standards, principles, policies and methods used to measure, recognize, and report economic events and business transactions.
4. Intentional omissions and disclosures or presentation.
5. The use of aggressive accounting techniques such as illegitimate earnings management strategies.
6. The manipulation of accounting practices under rule-based or principle-based accounting standards that allow companies to hide the economic substance of their performance.

ASSIGNMENTS PERFORM BY A FORENSIC ACCOUNTANT

Forensic Accountants become involved in a wide range of investigations, spanning many different industries. The practical and in-depth analysis that a Forensic Accountants will bring to a case helps uncover trends that bring to light the relevant

issues. Detailed below are various areas in which a Forensic Accountant will often become involved.

Criminal Investigations

Forensic investigations often relate to criminal investigations on behalf of police forces. For example, a Forensic Accountant may be trained by the RCMP, the OPP as well as by regional or local police forces and organizations such as the law Society. A Forensic Accountants report is prepared with the objective of presenting evidence in a professional and concise manner.

Shareholders and partnership Disputes

These assignments often involve a detailed analysis of numerous years accounting records to qualify the issues in dispute. For example, a common issue that often arises is the compensation and benefits received by each of the disputing shareholders or partners.

Personal Injury Claims/Motor Vehicle Accidents

A Forensic Accountant is often asked to quantify the economic losses resulting from a motor vehicle accident. A Forensic Accountant needs to be familiar with the legislation in place which pertains to motor vehicle accidents.

Cases of medical malpractice and wrongful dismissal often involve similar issues in calculating the resulting economic damages.

Business Interruption/Other Types of Insurance Claims

Insurance policies differ significantly as to their terms and conditions. Accordingly, these assignments involve a detailed review of the policy to investigate coverage issues and the appropriate method of calculating the loss. A Forensic Accountant is often asked to assist from either an insured or insurers perspective in the settlement of a case. Examples of these types of assignments include, business interruptions, property losses and employee dishonesty claims.

Matrimonial Disputes

Matrimonial disputes from a Forensic Accounting point-of-view often involve the tracing, locating and evaluation of assets. The assets to be evaluated and valued may be business, property or other assets.

Business Economic Losses

Examples of assignments involving business economic losses include, contract disputes, construction claims, expropriations, product liability claims, trademark and

patent infringements and losses stemming from a breach of a non-competition agreement.

Professional Negligence

These investigations are often approached from two different but complimentary perspectives, these being-

- Technical-has a breach of Generally Accepted Accounting Principles or Generally Accepted Auditing Standards or other standards of practice occurred and
- Loss Quantification.

If the professional in question is a n accountant then a Forensic Accountant could be involved with both perspectives. If the matter involves some other profession a Forensic Accountant will normally be retained to perform only loss quantification.

Medication and Arbitration

Because of their familiarity and comfort with legal issues procedures some Forensic Accountants have sought out special training and become involved in alternative dispute resolution (ADR)

TYPES AND PROPENSITIES:

Corporate fraud can be classified in three broad areas:

1. Financial fraud or Accounting fraud consists of falsifying financial information by fudging the books thereby misleading the investors and is usually perpetuated by management. capitalising expenses, side deals, swap transactions, channel stuffing, accelerated revenues and deferred expenses are the most popular accounting schemes.
2. Self-dealing by corporate insiders is mostly related to misappropriation of corporate assets by senior executives such as loans granted to senior management that are never intended to be repaid, failure to disclose forgive loans, reimbursed personnel expenses and extra ordinary personnel expenses charged to the company. In addition, it may be insider trading, misuse of corporate property for personal gain, kickbacks and individual tax violations related to self-dealing.
3. Obstructive conduct is falsifying testimony to regulators, erasing computer files, shredding documents, creating or altering document to support illegal conduct.

FORENSIC ACCOUNTING - INDIAN SCENARIO:

Recently, forensic accounting has become an indispensable tool for investigation in India due to rapid increase in white-collar crimes and our law enforcement agencies do not have the expertise or time to uncover such stock market fraud or bank fraud or cyber fraud. Scams like Satyam (2009), 2-G Spectrum (2010), Commonwealth games (2010), Railgate scam (2013), Tatra Truck scam (2011) and most recently coal block allocation scam (2012) and Chopper scam (2013) in India had improves the scope for forensic accounting in India. According to the Corruption Perception Index 2016 Report released by Transparency International, India's rank is 79th among 176 countries affected with corruption.

CONCLUSION:

Forensic Accounting or Financial Forensics is the specialty practice area of accountancy that describes engagements that result from actual or anticipated disputes or litigation. Forensic means suitable for use in a court of law and it is to that standard and potential outcome that Forensic Accountants generally have to work. Organizations are facing a number of challenges in the current economic scenario. They constantly deal with pressure of uncertain markets, escalating input costs, high labour turnover and advent of technology. Such pressures may provide opportunity and incentives for fraudsters to commit frauds. With any change in the environment of the businesses, the need to adapt to these changes is a prerequisite to attain sustainable growth. The change in the current environment is the increased fraud exposure for organizations. The response to this change is to equip our businesses against fraud risks and exposure through a systematic programme of fraud risk assessment, monitoring, incident response and remediation. Forensic accounting is the best ever growing areas of accounting that enables in enhancing the chances of success in day to day life of corporate firm by improving the role of corporate governance as well as helping in formulating and establishing efficient control systems. Hence, proper attention is required by the regulators, Government and the educational institutes to support forensic accounting in India.

Forensic Accountants, also referred to as forensic auditors or investigative auditors, often have to give expert evidence at the eventual trial. All of the larger accounting firms, as well as many medium-sized and boutique firms have specialist Forensic Accounting departments. Within these groups, there may be further sub-

specializations: some Forensic Accountants may, for example, just specialize in insurance claims, personal injury claims, and fraud, construction or royalty audits.

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