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The Companies Act, 2013 has provided various new definitions and new provisions which did not exist in the erstwhile Companies Act, 1956. Such new concepts have been introduced in view of the global corporate governance trends and to make the Companies accountable for their stakeholders.

This issue of **InSync** aims at explaining few such concepts introduced for the first time in the Companies Act, 2013.

Banking Company

Section 2(9) of the Companies Act, 2013 defines the term Banking Company as a company defined under clause (c) of the Section 5 of the Banking Regulation Act, 1949. For smooth functioning of the Banking Companies the Companies Act, 2013 similar to its erstwhile counterpart grants certain exemptions. For the smooth functioning of banking companies act grants exemptions from compliance of provisions viz. restrictions on purchase by company or giving of loans by it for purchase of its shares, acceptances of deposits from public, transfer to IEPF, financial statements, loans and investments made etc.

This not only provides an extra regulator for the banking companies but also gives them an ease in their performing

Section 2(9) of the Companies Act, 2013 defines *Banking Company* as a company defined under clause (c) of the Section 5 of the Banking Regulation Act, 1949.

For the smooth functioning of banking companies, the Companies Act grants exemptions from compliance of provisions.

day-to-day functions.

Section 182 of the Companies Act, 2013 prescribes regulations on the political contributions to be made by companies.

Only companies other than Government Companies which have been in existence for at least three financial years can contribute to any political party

Contributions can only be made to those political parties which are registered under Section 29A of the Representation of the People Act, 1951.

The aggregate amount of political contribution which can be made by a company in a financial year shall not exceed Seven and a half per cent of its average net profits

Restrictions on political contributions by Companies

Indian Democracy gives complete space to be on the side as one wishes to be. Though body corporates are not eligible to vote, still donations and contributions made by companies give a new definition to the fund raising programmes of the political parties. Companies in India are allowed to make political contributions with certain restrictions. Section 182 of the Companies Act, 2013 prescribes regulations on the political contributions to be made by companies.

Which Companies can make political contributions?

Only companies other than Government Companies which have been in existence for at least three financial years can contribute to any political party.

To whom contributions could be made?

Contributions can only be made to those political parties which are registered under Section 29A of the Representation of the People Act, 1951.

Ceiling limit of Political Contributions by Companies

The aggregate amount of political contribution which can be made by a company in a financial year shall not exceed Seven and a half per cent of its average net profits during the three immediately preceding financial years.

Powers of making Political Contributions

during the three immediately preceding financial years.

To curb any malpractices by companies and put estoppels on corporate groups favoring a particular political party, Section 162 further prescribes for inclusion of certain amounts as contributions.

Every company making any political contributions shall disclose in its profit and loss account the contributions made and the name of the party to whom contribution has been made.

Any contravention of Section 182 shall make the company punishable with fine extending upto 5 times the contribution. It also provides for punishment for officer in default.

The power to make a political contribution vests with the Board of Directors and a resolution authorizing the making of such contribution shall be passed at a duly convened meeting.

What will be meant by Deemed Contribution

In order to curb any malpractices by companies and put estoppels on corporate groups favoring a particular political party, Section 162 further prescribes for inclusion of certain amounts as contributions. It clearly states that following amounts shall be deemed to be considered as contribution while calculating the ceiling limits:

- a. Any donations or subscription or payments given by the company to any such person who, to its knowledge, is carrying on any activity which, at the time at which such donation or subscription or payment was given or made, can reasonably be regarded as likely to affect public support for a political party;
- b. The amount of expenditure incurred, directly or indirectly, by a company on an advertisement in any publication, being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like, shall also be deemed,—

(i) Where such publication is by or on behalf of a political party, to be a contribution of such amount to such political party, and

(ii) Where such publication is not by or on behalf of, but for the advantage of a political party, to be a contribution for a political purpose.

Every company making any political contributions shall disclose in its profit and loss account the contributions made and the name of the party to whom contribution has been made. Any contravention in the provisions of Section

182 of the Companies Act, 2013 shall make the company punishable with fine extending upto 5 times the contribution and every officer of the company punishable for an imprisonment for a term of six months which may extend to 5 times the amount so contributed

For any clarification or delineation, feel free to contact us.



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