

PENALTIES FOR WHITE COLLAR CRIMES

Sentencing in white collar crime in India

Punishment for fraud

Section 447 of the Companies Act, 2013 provides punishment against the commission of fraud. It states that in case a person is found guilty of an offence of fraud he would be imprisoned for a period not less than 6 months and which extend to 10 years. And he will also be subject to fine which should not in any case be less than the amount involved in fraud and which may extend to 3 times the amount involved in the fraud. In case the fraud has been committed against the interest of the general public than the term of imprisonment would not be less than 3 years.

Punishment for false statement

Section 448 of the Companies Act, 2013 states that: if a person deliberately makes a false statement, knowing it to be false or deliberately omits any material fact, knowing it to be material than he would be held liable for his wrongful act. This false statement can be made either through return, report, certificate, financial statement, prospectus, statement or any other documents required for the purpose mentioned under this Act or any rules made under it.

Punishment for furnishing false evidence

Section 449 of the Companies Act, 2013 provides for punishment for furnishing false evidence. It states that if any person gives a false evidence in a court of law:

- Either upon an examination on oath or solemn affirmation; or
- When any company is about to dissolve or otherwise also in case of any matter arising under this Act, in any affidavit, deposition or solemn affirmation,
- He shall be punished with imprisonment and fine both. The imprisonment will not be less than 3 years and may extend to 7 years and fine may extend to 10 lakh rupees.

Punishment when no specific punishment or penalty has been provided

Section 450 of the Companies Act, 2013 states that in case a punishment or penalty for a crime, which has been committed either by an officer of a company or by any other person who contravenes any of the provisions of this act, then under this section he would be penalized with a fine which may extend to 10 lakh rupees. In case the contravention continues the person would be asked to pay a fine which may extend to 1,000 rupees everyday till the intervention continues.

Punishment when the default has been repeated

Section 451 of the Companies Act, 2013 lays down that, when a company or any officer of that company commits an offence for which he has already been penalized and has also faced imprisonment, in case commits the same offence again within a period of 3 years, than that company and every one of those officers involved in the commission of the offence for the second time shall be punished with twice the amount of fine, in addition to the term of imprisonment provided in the act for that offence. But, in case the offence was committed after a period of 3 years of commission of the offence for the first time then this rule would not be applicable.

Appointment of adjudicating officers

Section 454 of the Companies Act, 2013 says that the Central Government, by an order stated in the official gazette, has the power to appoint an adjudicating officer who will have the right to adjudicate penalty under the provisions of this act. The Central Government will also decide the jurisdiction for the officers.

The adjudicating officer can impose a penalty on the company or its officers on the grounds of noncompliance with the given provision under the Act. In case an officer who has been penalised by the adjudicating officer is dissatisfied with his action, he could file an appeal to the regional director would be having jurisdiction in that matter.