

A STUDY OF INDIAN FORENSIC ACCOUNTING WITH REFERENCE TO CORPORATE FRAUDS AND SCAMS CASES

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ABSTRACT

Forensic accounting popularly known as white collar crimes has risen to prominence because of increased financial fraud at the end of the past and the beginning of this century have imposed the need for deeper investigation of irregularities in the area of financial reporting. Forensic accounting is a specialized field of accountancy which investigates scams and frauds and analyse financial information to be used in legal proceedings in the court. Forensic accounting uses auditing, accounting, and investigative skills to conduct investigations into fraud and theft by way of investigative accounting and litigation support. The main aim of paper is to discuss scams, frauds and their investigation as well as to create awareness about the necessity and role of forensic accounting and a forensic accountant in development and betterment of the Indian economy. This paper is conceptual in nature and information is collected from secondary data and the previous literature on forensic accounting, along with the experts' views on the same. This research has been inspired by various news articles, journals and the urge to explore the field. The paper also tries to provide framework for forensic accounting and the methodology in which forensic accounting is conducted. The paper also talks about relevance and legislative support for forensic accounting in India. The rise of financial scams in India especially in governmental sector requires that forensic auditing should be made mandatory as the current statutory audit are not in the state of in depth audit which is required to detect the financial scandals which have become a real threat against the development agenda for developing and emerging nations like India.

Keywords: Auditing, Corporate Frauds & Scams, Forensic Accounting, Forensic Accountant, White-collar crimes

INTRODUCTION

Economic and accounting scandals and scams have become a global concern in recent times. Financial frauds and crimes are old concepts in the world, but their solution forensic accounting is a relatively new one. Fraud, as all of us know, is the wrongful act of deception done willingly for a personal, or to be more specific, financial gain; and the answer to this deep-rooted problem is forensic accounting which is the use of accounting skills to investigate fraud and financial crimes. During the last few decades, there have been numerous financial frauds and scandals, which acted as milestones with lot of historical significance. Financial scam has become a real threat against the development agenda for developing and emerging nations. Forensic Accounting is very helpful for the Indian Government to solve this problem. In India, there is no awareness of forensic accounting in many companies. This paper aims to highlight just that. The paper also clears the misconception regarding what kind of motives form a base for fraud and gives an insight to the profession and life of a forensic accountant. In this paper, techniques, growth, reasons, fraud cases and others important aspects of forensic accounting also discussed for conclusion. In short, a forensic accountant is a bloodhound of accounting, not a watch dog.

LITERATURE REVIEW

1. **CA. Atul Kumar Gupta, President, ICAI Said** “The project of developing Forensic Accounting and Investigation Standards (FAIS) is an outcome of extensive discussions within the ICAI on the need for the CA community to curtail its dependence on overseas literature and Standards, and instead develop its own set of intellectual property along the lines of the government’s vision of an “Atmanirbhar Bharat”.
2. **The Companies Act 2013 - Internal Financial Control (IFC)** which has certain features of IC and certain features of ICFR. The Indian regulatory environment aspires to set up a legal framework to incorporate the global standards and provisions in its statutes. This convergence with the global laws is extremely important with the idea of bringing Indian corporate laws at par with the global standards and ensuring that the disparity in laws cannot be used to the advantage of fraudsters.
3. **The America Institute of Certified Public Accountants (AICPA)** defines forensic accounting as services that involve the application of specialized knowledge and investigative skills possessed by Certified Public Accountants. Forensic accounting services utilize the practitioner’s specialized accounting, auditing, economic, tax, and other skills (AICPA 2010).

OBJECTIVES OF THE STUDY

1. To understand the historical Concept of forensic accounting.
2. To study of various frauds and scams in India.
3. To understand the forensic audit framework.
4. To identify the forensic accountants role in the fraud examination.
5. To understand techniques employed in forensic accounting.
6. To understand the significance and problems of forensic accounting.

RESEARCH METHODOLOGY

The study is based on secondary data of Corporate Sector Cases which is collected from SEBI guidelines, journals, annual reports, articles on forensic accounting, websites of various reputed government organizations and private organizations.

CONCEPT OF FORENSIC ACCOUNTING

Historical Concept: Sherlock Holmes was probably the most famous practitioner being the Forensic Chemist. Egyptians accountants were involved in detection and prevention of fraud as per archaeological findings reveals during 3300-3500 BC. A close relationship was developed between accounting and legal profession in early 19th century. One can highlight the bringing down of Al Capone was based on investigative work done by Elmer Irey, an IRS accountant that ensure conviction for tax evasion as the first major work of 20th century. Further the term “forensic accounting” was used by Maurice E. Peloubet a partner in a New York accounting firm in 1946 essay “Forensic Accounting: Its place in Today’s Economy”. He wrote about the use of accounting in courtroom proceedings as part of testimony, but acknowledged that investigation was becoming more prevalent for accountants due to the increase in government agencies that regulated financial practices.



Forensic Concept in India: The word forensic underscores the application of scientific methods and techniques to the investigation of crime, as much as it is concerned with courts of law. Forensic meant evidence applied in courts of law. Forensic accounting, sometimes called investigative accounting. Forensic accounting refers to the application of accounting principles, theories and discipline to facts and hypotheses at issue in a legal context, embracing litigation or any other form of dispute resolution such as arbitration. It consists of two major components: **Investigative Accounting:** Criminal matters like employee theft, securities fraud, insurance fraud etc., provisions and suggestions regarding possible courses of action. **Litigation Support:** Quantification of economic damages amount, accounting assistance in litigation matters.



CAUSES OF GROWTH OF FORENSIC ACCOUNTING IN INDIA

1. India not having enough forensic accountants and lack of awareness and understanding of the profession.
2. Conventional accounting could not bring into light many financial irregularities appropriation and expropriation detrimental to stakeholders due to failure of internal and external audits in the organizations.
3. Culprits are using sophisticated technologies in committing frauds hence to replace old investigation methodology in right way of new technology on the IT platform.
4. To collusion and lobbying rotation and appointment of the statutory auditors by company in India.
5. Auditor's certificates are hardly scrutinized carefully especially when the reports are unclean, doubtful and qualified.

TYPES OF FRAUDS IN INDIA

1. **Corporate Frauds:** It is an unlawful activity undertaken by an individual or a company to give an advantage to the perpetrating company.



2. **Securities Frauds:** Securities fraud, also known as stock fraud and investment fraud, is a deceptive practice in the stock market that induces investors to make purchase or sale decisions on the basis of false information, frequently resulting in losses, in violation of securities laws. Offer of risky investment opportunities to unsophisticated investors who are unable to evaluate risk adequately and cannot afford loss of capital is a central problem. Similarly, policyholders seek the help of a forensic accountant when they need to challenge the claim settlement as worked out by the insurance companies. A forensic accountant handles the claims relating to consequential loss policy, property loss due to various risks, fidelity insurance and other types of insurance claims.



3. **Insurance Frauds:** There is different type of frauds in insurance sectors. E.g. health insurance, claims fraud, false claims, insurance speculations, application frauds etc.



4. **Bank Frauds:** It is the use of potentially illegal means to obtain money, assets, or other property owned or held by a bank or financial institution, or to obtain money from depositors by fraudulently posturing as a bank or other financial institution. In many instances, bank fraud is a criminal offence. The number of bank frauds in India is substantial. It is increasing with the course of time in all the major operational areas in banking. Bank fraud is a big illegal business in today's world.



5. **Cyber Frauds:** Cybercrime refers to any crime that involves a computer and a network. The computer may have been used in the commission of a crime, or it may be the target. Net crime is criminal exploitation of the Internet. Dr. Debarati Halder and Dr. K. Jaishankar (2011) define Cybercrimes as: "Offences that are committed against individuals or groups of individuals with a criminal motive to intentionally harm the reputation of the victim or cause physical or mental harm to the victim directly or indirectly, using modern telecommunication networks such as Internet (Chat rooms, emails, notice boards and groups) and mobile phones (SMS/MMS)". Such crimes may threaten a nation's security and financial health.



6. **Identity theft:** The fastest-growing type of fraud in the world is identity theft. It occurs when the fraudster uses your credit card or bank account information to buy items and then charge them.



MAJOR FINANCIAL SCAMS IN INDIA

1. **Unit Trust of India (2001):** Rs. 1300 Crores.
2. **Stamp Paper Scam (2005):** Rs. 600 Billion counterfeiting of stamp papers and selling fake to bulk purchasers like stock broking firm, banks and insurance companies, sentenced to 30 years of

rigorous imprisonment. Abdul Karim Telgi & his associates, politician, police officers and government employees.

3. **Sahara India Pariwar Investor Fraud (2009):** Subrata Roy, Rs. 2,000 crores.
4. **Satyam Computers (2009):** Rs.10,000 crore falsified revenues, margins and cash balance, operating profit artificially boosted from 61 crores to 649 crores. B. Ramalinga Raju & his family, Board of Directors, CFO, Top level management and auditors.
5. **2G Spectrum (2010):** Rs. 1.76 lakh crores of irregularities in awarding spectrum licenses issued on first cum first serve basis instead of auction and advancing of cutoff date which was illegal. A Raja, Nira Radia, MK Kanimozhi and many Telecom Company.
6. **Common-wealth Games (2010):** Allegations of Rs. 70,000 crores corruptions and mismanagement by the organizing committee as a delay in the construction, misuse of funds, heavy payments made in the name of non-existing parties. Suresh Kalmadi & other organizing committee members, 2 private companies & government officials.
7. **Adarsh Housing Society Scam (2010):** A six storey house for kargil war heroes and widows got converted into a 31storey and allotted to top defence officers, bureaucrats, a former environment minister and legislators. The market rate was 6-8.5 crores. It was allotted at a throw away price of 60-85 lakhs. It was the violations of environment rules.
8. **Uttar Pradesh NRHM (2010):** A scam of Rs.10,000 crores in the National Rural Health Mission, a central government program in rural areas. BS Kushwaha, Top politicians and bureaucrats.
9. **Coal Block Allocation/Coalgate (2012):** Coal blocks allotted, not auctioned, leading to estimated losses as per the Controller and Auditor General of India was Rs. 1.86 Lakh crores. Ex. coal ministry, many electric boards & private companies.
10. **Karnataka Wakf Board Land (2012):** Waqf Board Members, 2 lakh crores.
11. **AgustaWestland VVIP Chopper (2013):** The former IAF chief has accepted bribes to win contract worth Rs. 36 billion of Rs. 3600 Crores Augusta Westland Company deal. Former IAF chief SP Tyagi & his cousins, politicians, government officials & several middlemen.
12. **Saradha Chit Fund (2013):** Nalini Chidambaram, 10,000 Crore.
13. **Kingfisher Airlines (2016):** Mised banks and misused money, fraud and money laundering of Rs 9,000 crores. Vijay Mallya, politicians, government officials & several middlemen.
14. **PNB Fraud (2018):** Agencies probing India's biggest banking scam of fake bank guarantees/Letters of Understanding (LoUs) of Rs 13,500 crore. Nirav Modi and his maternal uncle Mehul Choksi, politicians, government officials & several middlemen.

AGENCIES DEALING WITH FRAUDS IN INDIA

1. **Company Law Board (CLB):** The Central Government in terms of Section 10(E) of the Companies Act, 1956 constituted an independent Company Law Board (CLB) vide Notification No. 364 dated the 31st May, 1991. The CLB is a quasi-judicial body, exercising equitable jurisdiction, which was earlier being exercised by the High Court or the Central Government. The Board has powers to regulate its own procedures. The Company Law Board has framed Company Law Board Regulations 1991 prescribing the procedure for filing the applications/petitions before it. The Central Government has also prescribed the fees for making applications/petitions before the Company Law Board, under the Company Law Board, (Fees on applications and Petitions) Rules 1991.



2. **Central Bureau of Investigations (CBI):** The Central Bureau of Investigation traces its origin to the Special Police Establishment (SPE) which was set up in 1941 by the Government of India. The

DSPE acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry resolution dated 1.4.1963. Initially the offences that were notified by the Central Government related only to corruption by Central Government servants. From 1965 onwards, the CBI has also been entrusted with the investigation of Economic Offences and important conventional crimes such as murders, kidnapping, terrorist crimes, etc., on a selective basis. The SPE initially had two Wings:

- **General Offences Wing (GOW):** The GOW dealt with cases of bribery and corruption involving the employees of Central Government and Public Sector Undertakings.
- **Economic Offences Wing (EOW):** The EOW dealt with cases of violation of various economic/fiscal laws.

It was therefore decided in 1987 to constitute two investigation divisions in the CBI, namely, Anti-Corruption Division and Special Crimes Division, the latter dealing with cases of conventional crime, besides economic offences.



3. **Central Vigilance Commission (CVC):** The CVC was set up by the Government in February, 1964 on the recommendations of the Committee on Prevention of Corruption, headed by Shri K. Santhanam, to advise and guide Central Government agencies in the field of vigilance. CVC is conceived to be the apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organizations in planning, executing, reviewing and reforming their vigilance work. A Central Vigilance Commissioner - Chairperson; Not more than two Vigilance Commissioners - Members. The CVC is a Designated Agency to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.



4. **Economic Offences Wing (EOW):** The Economic Offences Wing (EOW) came into existence in 1970, as a part of CID. In 1977, it became a separate specialized investigation branch of U.P. Police. EOW conducts Investigation and Prosecution of cases of cheating, fraud and misappropriation of government money concerning the following departments: Forest, Excise, Transport, Agriculture, Food and Civil Supplies, Panchayati Raj, Local Bodies, Minor Irrigation, Industries, Sales Tax. Government can also entrust this agency with cases concerning other departments and private persons, depending upon the ramification of the economic offences committed. The EOW also collects intelligence regarding loss of Govt. Revenue and brings such cases to the knowledge of the Govt. for follow up action.



5. **Enforcement Directorate (ED):** Directorate of Enforcement is a Multi-Disciplinary Organization mandated with the task of enforcing the provisions of two special fiscal laws - Foreign Exchange Management Act, 1999 (FEMA) and Prevention of Money Laundering Act, 2002 (PMLA). Besides directly recruiting personnel, the Directorate also draws officers from different Investigating Agencies, viz., Customs & Central Excise, Income Tax, Police, etc. on deputation. The Directorate of Enforcement, with its Headquarters at New Delhi is headed by the Director of Enforcement.

There are five Regional offices at Mumbai, Chennai, Chandigarh, Kolkata and Delhi headed by Special Directors of Enforcement. The main functions of the Directorate are as under:

- Investigate contraventions of the provisions of Foreign Exchange Management Act, 1999(FEMA).
- Investigate offences of money laundering under the provisions of Prevention of Money Laundering Act, 2002(PMLA).
- Adjudicate Show Cause Notices issued under the repealed Foreign Exchange Regulation Act, 1973 (FERA).
- Sponsor cases of preventive detention under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974(COFEPOSA) in regard to contraventions of FEMA.
- Render cooperation to foreign countries in matters relating to money laundering and restitution of assets under the provisions of PMLA and to seek cooperation in such matters.

ENFORCEMENT DIRECTORATE

(Foreign Exchange Management Act, 1999 and Prevention of Money Laundering Act, 2002)

6. **Income Tax department (IT):** The IT department is a government agency in charge of monitoring the income tax collection by the Government of India. It functions under the Department of Revenue of the Ministry of Finance.



7. **Reserve Bank of India (RBI):** RBI is an India's central banking institution, which controls the monetary policy of the Indian rupee. It commenced its operations on 1 April 1935 in accordance with the Reserve Bank of India Act, 1934. The central bank of any country executes many functions such as overseeing monetary policy, issuing currency, managing foreign exchange, working as a bank for government and as a banker of scheduled commercial banks. It also works for overall economic growth of the country. The preamble of the Reserve Bank of India describes its main functions as to regulate the issue of bank notes and keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage.



8. **Securities and Exchange Board of India (SEBI):** The SEBI is the regulator for the securities market in India. It was established in 1988 and given statutory powers on 30 January 1992 through the SEBI Act, 1992. The Preamble of the Securities and Exchange Board of India describes the basic functions of the Securities and Exchange Board of India as to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and for matters connected therewith or incidental thereto. SEBI has to be responsive to the needs of three groups, which constitute the market issuers of securities, investors, market intermediaries.



9. **Serious Fraud Investigation Office (SFIO):** SFIO is a multi-disciplinary organisation under Ministry of Corporate Affairs, consisting of experts in the field of accountancy, forensic auditing,

law, information technology, investigation, company law, capital market and taxation for detecting and prosecuting or recommending for prosecution white-collar crimes/frauds. SFIO has head office in New Delhi and regional offices in Maharashtra, Andhra Pradesh, Tamil Nadu and West Bengal.

10. **Interpol:** Interpol is the world's largest international police organization, with 192 member countries. Interpol role is to enable police around the world to work together to make the world a safer place. Our high-tech infrastructure of technical and operational support helps meet the growing challenges of fighting crime in the 21st century.



CONNECTING POLICE FOR A SAFER WORLD

11. Various Courts who are major regulatory authorities under respective statutes.

HOW TO BECOME A FORENSIC ACCOUNTANT

1. Forensic accounting as a career opted by the person who obtained minimum of a bachelor's degree/commerce degree. A chartered accountant membership in a body of certified accountants can go for specialise in forensic accounting. The forensic accountants' prior audit and accounting experience will be of tremendous assistance. But ultimately, it is only through working with experienced forensic accountants on various cases that one can learn the skills necessary to become a capable forensic accountant. There are several organizations that provide training and additional certification for forensic accountants in India and in foreign country. Each organization requires that its members possess varying degrees of education and experience, and they must sit for additional exams. These certifications show that a forensic accountant has training and experience beyond that of a standard accountant.



2. **Forensic Accounting Institute:** Some places where one can study and/or obtain certifications as Forensic Accounting Professional are:

- Institute of Chartered Accountants of India, New Delhi
- The Institute of Cost Accountants of India, New Delhi.
- Association of certified fraud examiners , USA
- International Forensic Sciences, Maharashtra.
- Association of Certified Fraud Examiners (ACFE), USA.
- Indiana University, Bloomington, USA
- British Columbia Institute of Technology, Canada
- Charles Stuart University, New South Wales, Australia






The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)





3. **Some Forensic Accountants take courses in:** Business law, Law enforcement, Criminal law, Business and finance, Communication, Information systems, Psychology, Sociology.

ROLE OF FORENSIC ACCOUNTANT






Computer Forensics	Assisting in electronic data recovery and enforcement of IP rights etc. Developing computerized applications to assist in the analysis and presentation of financial evidence.	
Litigation Consultancy	Working with lawyers and their clients engaged in litigation and assisting with case preparation, evidence and strategy.	
Matrimonial Disputes	Solicitors often need the services of forensic accountants in divorce cases involving disputes about matrimonial assets and liabilities.	
Dispute Settlement	Business firms appoint forensic accountants for resolving the cases related with construction claims, contract disputes, product liability claims, and infringement of trademarks and patent, liability arising from breach of contracts and so on.	
Insurance Claims Settlement	Insurance companies recruit forensic accountants for the assessment of claims to be settled. Similarly, policyholders seek the help of a forensic accountant when they need to challenge the claim settlement as worked out by the insurance companies.	
Mediation/Arbitration Service	Forensic accountants render both arbitration and mediation services for the business community. They also resolve the matters related with partnership and corporation disputes.	
Professional Negligence	Forensic accountant identified the Professional negligence cases like Non-conformation to Generally Accepted Accounting principles (GAAP) or non-compliance to auditing practices or ethical codes of any profession.	
Criminal Investigation	Forensic accountants often attend court to testify in criminal court hearings, as expert witnesses and give his/her expert opinion for the criminal actions to individuals or corporate bodies in fraud and white-collar crime investigations.	
Fraud Investigations	Forensic accountants to assist in business investigations where the employee involve in fraudulent activities and is caught to have committed fraud.	

KEY CHALLENGES IN FORENSIC ACCOUNTING

Heavy Cost of Service	Forensic accounting is an expensive service in comparison to investigative auditing.	
Lack of Segregation of Duties	Failure to segregate duties appropriately across multiple systems/manual processes can inadvertently allow employees to commit fraud or conceal fraudulent activity.	
Complex Political Fancy and Judicial System	Facing a stiff challenge in gathering information against bureaucrats or politicians that is admissible in the court of law.	

Compliance with an Ethics Programme	The pressure to meet targets and actions of senior management may tacitly encourage employees to overpower/ violate the organisation's message on integrity and ethical values.	
Technology related Fraud	The Technology used by criminals and fraudsters is changing constantly and forensic accounting need to stay on top of their game to stop and detect these fraudulent practices.	
Corporate Image	It will be quite costly if any issues on financial defalcation or fraud were brought to court and where it involves expert witnessing.	
Inter-jurisdiction Fraudster	Forensic accountants find it difficult to prosecute fraudster from other countries in Indian jurisdiction.	

DETECTION, PREVENTION OF FRAUD & RESPONSE MECHANISM

Strong Anti-Fraud Programme	Anti-fraud framework to reduce the risk on account of fraud and misconduct within companies.	
Leadership Setting the Tone	Boards of directors are responsible for maintaining disciplinary action and zero tolerance for violations across the entire company and its various locations against employees.	
Ethics Code	This ethics code must be formally communicated and documented to the employees, stakeholders and third parties on the official website of the organization. This function should be continuously monitored.	
Fraud Prevention Policies	Organisations willing to counter fraud should develop sound fraud prevention policies through Whistle blower mechanism.	
Complaint Mechanism or Whistleblower	A whistleblower is a person(s) who has and reports insider knowledge of illegal activities occurring in an organisation.	

CONCLUSION

Forensic accounting has come to the limelight only recently due to rapid increase in frauds and white-collar crimes in India. The major concern of the country is to prevent increase in fraud and white collar- crimes which affect the very fabric of the society. Forensic accounting has come up as an effective tool for preventing this menace. It is still in a nascent stage and requires technological reinforcement on a continuous basis and global cooperation. Forensic accountants are currently in great demand with the public need for honesty, fairness and transparency in reporting increasing exponentially. Forensic accounting will develop as a specialised profession of accountancy and its importance to law enforcing agencies and also regulators will increase day by day. Lot of research is also needed and accountants will play a very significant role in this mission. Hence there is a great scope for forensic accounting in investigation during merger, amalgamation and acquisition, tax investigations, economic crime investigations, all kind of civil litigation supports, specialized audits, and even in terrorist investigations. This is the right time to adopt and adhere strictly the forensic accounting at all the levels of public,

government and corporation accounting as an accounting tool to prevent and cure the entities from the financial and other ills.

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