

Efficacy of CAG As A Regulatory Authority

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Abstract: *The institution of comptroller and auditor general of India (CAG) is one of the earliest institutions in the evolution of democratic processes in India, it is also known as the supreme audit institution which was setup to bring transparency accountability and probity in public life. CAG of India is the most important officer under the constitution who is appointed by the President who holds office for 6 years or till 65 years of age. CAG derives his duties and powers largely from article 149 to 151 of the constitution of India. The CAG audits all receipts and expenditure of both central and state government and he is also external auditor of government owned companies. The reports of the CAG are taken into consideration by the public accounts committees (PAC) of the parliament and the state legislatures. The constitution of India has mandated the institution as the auditor to the nation. The CAG is also the head of the Indian audit and accounts department. Thus the CAG is a dignitary who occupies a unique place in Indian democracy by upholding the constitution and the laws in the field of financial administration. He is duty bound to challenge any improper exercise of discretion by authorities and comment on the propriety of sanctions and expenditure. The CAG is intrinsically linked to the governance of the country. His role as the highest auditing authority is linked to augmenting the efficacy of government policy and undertaking. Hence a sincere attempt is made in this paper to study the efficacy of the CAG as a regulatory authority.*

Keywords: *CAG, PAC, DPC, AUDIT.*

I. Introduction

The comptroller and auditor general of India is an authority established by the constitution of India who audits all receipts and expenditure of the government of India including those bodies and authorities substantially financed by the government. These audits are reviewed by the public accounts committees of the parliament of India and state legislative bodies. The CAG is the head of the Indian audits and accounts department and is appointed by the president and can hold his office for 6 years or up to the age of 65 years whichever is earlier.

Article 149 to 151 of the constitution prescribes a unique role for the CAG for assisting the parliament to enforce the accountability of the government departments. The CAG shall perform such duties and exercise such powers in relation to the accounts of the union, states and of any other authority or body as may be prescribed by the law.

The importance of CAG is easily understood by the following words of Baba Sahib Ambedkar "I am of the opinion that this dignitary or the officer (C&AG) is probably the most important officer of the constitution of India. He is the one man who is going to see that the expenses voted by the parliament are not exceeded from what has been laid down by the parliament. If this functionary is to carry out the duties, I submit his duties are far more important than the duties of the judiciary."

II. Objectives

1. Study the historical background of office of CAG.
2. Study the efficacy of CAG as a regulatory authority.

III. Review Of Literature

1. Dr. B.P. Mathur, former Deputy CAG & Director, National Institute of Financial Management, Faridabad stated in his consultation paper on Efficacy of PAC in India C & AG – Reforming the Institution, January 8th 2001 about the evolution of Auditing India, role and Jurisdiction of CAG of India and also emphasized on strengthening the public accounts committee.
2. Kshma V Kaushik and Reva B. Kamboj in their paper study on the state of Corporate governance in India have emphasized about the role of auditors and considers them as gatekeepers of corporate governance by virtue of their independence and professional competence.
3. Gautam Sen, former Additional Controller General of Defence Accounts of GOI. In his Article The Hindu on September 30th 2015 has emphasized on the role and accountability of CAG of India and also mentioned

that his role must be enhanced for comprehensive financial oversight on government department as well as on statutory and autonomous bodies.

METHODOLOGY

The data required for the paper was obtained from search articles, policy papers and government websites and the study is purely based on secondary data.

LIMITATIONS

The subject relating to CAG of India covers various aspects which have a very wide scope. The study is limited only to the position and duties of CAG as a regulatory authority.

NEED FOR STUDY

The CAG of India plays a unique role in Indian democracy, by upholding the constitution and laws in the field of financial administration. CAG of India has the power to audit and report on all expenditure from the consolidated fund, contingency fund and public accounts of the Union and State Legislature. In an era where India has been plagued by the menace of unprecedented corruption, auditing and scrutiny of government exchequer assumes prime importance therefore this paper highlights the efficacy of CAG as a regulatory authority.

Historical background of office of CAG

The concept of accounting and auditing can be traced back to ancient times in India under the Mauryan rule final authority in the matter of finance was the king, Kautilya in his Arthashastra gives an elaborate account in system that existed during the Mauryan Period. Under the Gupta rule they introduced a more elaborate and orderly system of accounts and audit, the accounts were submitted periodically for audit and approval.

The Mughals also vested greater authority in their financial chief by naming him as the Dewan. Subsequently it was the British who introduced a proper system of accounting and auditing. In 1858 when the East India Companies administration was taken over by the crown a compulsory post of Accountant General of India was created to prepare the accounts of expenditure incurred in England, simultaneously an Independent Auditor was appointed for audit of these accounts. The Indian Audit & Accounts Departments was formed in 1860 which was one of the earliest institutions in the evolution of democratic process in India when government accounting and auditing functions were combined and placed under the Auditor General of India. It was setup to bring about transparency, accountability and probity in public life and this Institution was given statutory recognition in 1919. After independence the power of Auditor General was enhanced in 1950, when the constitution of India came into force, the designation was rechristened as the Comptroller and Auditor General of India. The office of CAG has been established by the Constitution of India (Article 148 – 151). All the Union and State Government Departments are subject to the Audit of the CAG including Commercial and Non-commercial Government Institutions, Autonomous bodies financed from Union or State Governments and Government Companies. These audits are reviewed by the Public Accounts Committee of the Parliament of India and State Legislatures.

Source: <http://cag.gov.in>

UNIQUE POSITION OF CAG

The CAG of India has the unique position because unlike most countries the CAG has been assigned both accounting and auditing functions. He is not an officer of the Parliament even though he serves the Parliament and the State Legislature. Thus, CAG is the dignitary who occupies a unique place in Indian Democracy.

CAG's office has been given a dual role one as the agency that functions along with the Legislature and ensures that the executive obeys the laws passed by the Legislature and enhances the executives accountability towards the Legislature, another as an agency that ensures obedience by sub-ordinate authorities with respect to regulations issued by the Executive hence it is rightly said. "The CAG has supreme as the Judges of the Supreme court, perhaps even more so".

CAG as a regulatory authority:

CAG is an authority established by the Constitution of India / Part V/ Chapter V/ Sub part 7B Article 148 who audits all the Receipts and Expenditure of the Government of India and State Government including various bodies and authorities sustainably financed by the Government. CAG is ranked 9 in India and enjoys the same status as the Judge of Supreme Court in Indian order of precedence is appointed by the President of India following the recommendation by the Prime Minister. He is also the External Auditor of the Government owned Companies.

The CAG is the administrative head of IA&A Department. His administrative powers will be governed by rules made by the President in consultation with the former. He plays a crucial role in the working financial committees of parliament and state legislative the CAG has come to be acknowledged as a friend, philosopher and guide of these committees. The CAG inter alia plays an essential role in federal financial matters. Article 149 of the Constitution states that “The CAG shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as prescribed by or under any law made by the Parliament”.

As per the provisions of the constitution the CAG’s (duties, powers and conditions of service act 1971) authorizes the CAG to lay down for the guidance of government departments the general principals of government accounting and broad principles applicable to audit of receipts and expenditure. The CAG also plays a fiduciary role in federal financial relations. He determines and confirms the net proceeds of taxes levied and collected by the union and assigned to the states or distributed between the union and the states.

CAG of India is empowered to audit all expenditure from the consolidated fund of the union or state government, whether incurred within India or outside and all revenues into the consolidated funds. This audit specifically includes transactions relating to debt, deposits, remittances, trading and manufacturing. The CAG conducts both regularity audits and efficiency-cum-performance audit of the government at the center and state level. CAG is the head of the supreme audit institution (SAI) of India and derives his duties and powers largely from article 149 to 151 of the constitution of India and CAG (duties, powers and conditions of service act 1971). Source: http://www.cag.gov.in/about_legal_dpc_html

Duties of CAG: The duties of the CAG as defined by the duties, powers and conditions of service (DPC) act 1971 are to audit and report upon:

CAG of India shall perform such duties as given and such powers with regard to the accounts of the union and of the states and of any other authority as may be prescribed by or any under law made by the Parliament (Article 149). All receipts and expenditure from the consolidated fund and contingency fund of India and of the state and union territory having legislative assembly. Trading, manufacturing, profit and loss accounts and balance sheets, and other subsidiary accounts kept in any government departments, accounts of stores and stock kept in government offices or departments. Government companies as per the provisions of the companies act, 2013.

He shall also report upon the accounts of corporations established by or under laws made by the parliament in accordance with the provisions of the respective legislation. Authorities and bodies substantially financed from the consolidated funds of the union and consolidated fund. Audit the grants and loans given by the government to the bodies and authorities for specific purposes. He is entrusted with audit of Panchayat Raj Institutions and Urban Local Bodies under Technical Guidance and Support. The reports of the CAG of India relating to accounts of the union shall be submitted to the President and of the states shall be submitted to the Governor.

Source: http://www.cag.gov.in/about_legal_dpc_html

IV. Conclusion

To sum up, CAG of India plays a very unique role as a regulatory authority by upholding the constitution and the laws in the field of financial administration. CAG is the principal auditor who acts as a watchdog to ensure that various authorities function in accordance with the constitution and the laws of the parliament with regard to financial matters. He plays an essential role in making the government more transparent and accountable to the legislature as well as the society. In essence the CAG acts as a custodian and trustee of public money, exercises his powers in consonance with the constitution and within the rules framed by the government from time to time, to ensure that there is no loss, leakage of revenue, avoidable expenditure and embezzlement.

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