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447 penalty for fraud

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Akshay (article) 12 February 2020

what is the penalty if fraud is less than 1% of turnover or 10 lakh whichever is lower and it involves public interest?

VISWA NAGASAI 12 February 2020

Where the fraud in question involves public interest, the term imprisonment shall not be less than 3 years, in the present situation the fraud is less than the amount specified and involves public interest... the companies act is silent about the present situation , it didn't specify any provisions for the present situation. but from the provisions we can say that ... a person guilty of such fraud shall be punishable with imprisonment for a term which shall not be less than 3 years but which may extend to five years or with fine which may extend to fifty lakh rupees or with both.

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50 lakh ??. where is it mentioned?



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In my opinion, the law maker expressly told about the situation which involves public interest. we have to read that provision with provision stating about fraud less than specified amount. Hope you understand it well now. Provided it's my personal opinion only, if you know any other experts opinion please convey me.



••• [Golu Bhai](#) [🕒 13 February 2020](#)

Yes, Mr. Viswa you are right, in this case both proviso to section 447 to be read together and should be given effect accordingly.
50 lacs fine is clearly mentioned in the 2nd proviso.



••• [Akshay](#) (article) [🕒 13 February 2020](#)

Got a different view.. imprisonment is min 3 and max 10. fine is fraud or 3 times fraud



••• [VISWA NAGASAI](#) [🕒 13 February 2020](#)

That is for fraud is above specified limit and involves public interest



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I got this view from ma audit faculty, I asked the same with a ca inter rank holder and another YouTube video of one law faculty. all are specifying one fact. if it Les than 10 lac or 1% as the case may be and no public interest only then we have to take 50 laks. all other cases take first category penalty..ie above. 10 lak and no public interest.. above 10 lak and public interest and Les than 10 lac and public interest. they specifically said if question involves public interest no need to care the monetary limit. higher penalty wil be charged



••• [VISWA NAGASAI](#) 🕒 13 February 2020

But the law maker specially gave proviso as... provided that where the fraud in question involves public interest , the term of imprisonment shall not be less than 3 years, in my view the same provision should read with the rest two provisions i.e , above specified limit and below specified limit. The CG shall issue circulars for this type confusing provisions.



••• [Akshay](#) (article) 🕒 13 February 2020

Imprisonment is 3 yrs minimum. no doubt in that... doubt is only regarding fine



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