A. FINANCIAL STATEMENT AND DIVIDEND :

Financial Year [Section 2(41)]: Under the 1956 Act, companies were permitted to decide their own financial year. The 2013 Act has taken away this liberty and requires all the companies to have a financial year ending as on the 31st of March. If any company desires to follow a different financial year because the holding company or subsidiary company requires following of different financial year for consolidation of its accounts, it will have to make an application to Tribunal. Tribunal, if satisfied, shall grant such an exemption.

Consolidated Statement: The 2013 Act requires consolidation of certain financial statements of any company having subsidiary, associate or joint venture company to prepare and present in addition to stand alone financial statements.

Dividend: Unlike the 1956 Act, the 2013 Act does not require certain percentage of profit to be transferred to the reserves before declaring the dividend. Further, a company which has incurred any loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, shall not be required to declare such interim dividend at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

Declaration of dividend [section 123]

- The existing requirement of the 1956 Act with regard to the transfer of a specified percentage of profits not exceeding 10% to reserve [that is, Companies (Transfer of Profits to Reserve) Rules, 1975] has not been acknowledged in the 2013 Act and thus companies are free to transfer any or no amount of profits to reserves [section 123 (1) of the 2013 Act].

- Similar to the existing provisions of the 1956 Act, the 2013 Act also provides that no dividend shall be declared or paid in case of inadequate profits by a company subject to the Rules yet to be notified. The company also cannot declare or pay dividend from its reserves other than free reserves [section 123(1) of the 2013 Act]. This could mean that the requirements provided in Companies (Declaration of Dividend out of Reserves) Rules, 1975 have been retained.

- As per the existing provisions of the 1956 Act, dividend includes interim dividend and all provisions of the 1956 Act which applies to the final dividend equally apply to interim dividend. The 2013 Act, however, imposes a further restriction on the declaration of interim dividend. The 2013 Act specifically provides that in case a company has incurred loss during the current financial year, up to the end of the quarter immediately preceding the date of declaration of the interim dividend, then the interim dividend cannot be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years [section 123(3) of the 2013 Act].

- The 2013 Act states that if a company fails to comply with the provisions of acceptance of deposits and repayment of deposits accepted prior to the commencement of this 1956 Act, it will not be able to declare any dividend on equity shares, as against the non-compliance of section 80A of the 1956 Act regarding redemption of irredeemable preference shares, etc [section 123(6) of the 2013 Act].

- The provisions of the existing Schedule XIV of the 1956 Act has been acknowledged under Schedule II of the 2013 Act. Important highlights from the Schedule II are as follows:

i. The useful life or residual value of an asset has been specified in Part C of the Schedule. Companies will be required to give disclosure for cases where the useful life or residual value is different from the useful life or residual value as specified in Part C of the Schedule.

ii. It is clarified in the 2013 Act that the requirements of Part C will not be applicable for companies in respect of which the useful life or residual value is notified by a regulatory authority.

- The 2013 Act does not give cognizance to the existing requirements of section 208 of the 1956 Act that deals with the power of a company to pay interest out of capital in certain cases.