Auditor's remark stating that the company has an internal audit system which "needs to be strengthened" is advisory in nature and does not amount to a "reservation" or "qualification" within the meaning of Section 217(3) of the Companies Act, 1956. Hence, the failure to furnish explanation on such remark does not attract penal liability under Section 217(5) of the Companies Act

The **Bombay High Court** in the case of **Radha Satish Timblo vs Union of India [Criminal Writ Petition No. 6 of 2024] dated April 27, 2026**, has held that an auditor's remark stating that the company has an internal audit system which "needs to be strengthened" is merely generic and advisory in nature and does not amount to a "reservation", "qualification" or "adverse remark" within the meaning of Section 217(3) of the Companies Act, 1956. Hence, the failure to furnish explanation on such remark does not attract penal liability under Section 217(5) of the Companies Act.

The Court further held that Section 217(3) contemplates explanations in the Board's report for the benefit of shareholders and not a separate satisfaction of the Registrar of Companies, and prosecution cannot be sustained merely because the Registrar found the reply to the show cause notice unsatisfactory. In addition, where no statutory sanction is required under Section 217, limitation cannot be extended on the basis of an alleged sanction, and a complaint filed beyond the prescribed period is barred.

The Court observed on a plain reading of Section 217 of the Companies Act, that the obligation under Section 217(3) is to give the fullest information and explanations in the Board's report, or addendum thereto, on every reservation, qualification or adverse remark contained in the auditor's report, and that this requirement is directed toward the shareholders of the company and is to be complied with through the Board's report placed before the annual general meeting. The provision does not envisage furnishing such explanations to the Registrar of Companies.

The Court further observed that the entire complaint was founded only on paragraph 7 of the annexure to the auditor's report, namely that "The Company has an internal audit system which needs to be strengthened." The Court found that the first part of the remark was a positive statement, and the second part was at best a general observation or recommendation for improvement of internal processes. Such a generic and advisory remark could not, by any stretch of interpretation, be construed as a "reservation", "qualification" or "adverse remark" for the purposes of Section 217(3).

On limitation issue, the Court rejected the respondents' case that prior sanction was a mandatory pre-condition for launching prosecution under Section 217 and that limitation should run from the date of receipt of such sanction. The Court held that there is no statutory requirement for obtaining sanction to launch prosecution under Section 217 of the Companies Act, 1956, and the circulars/notifications relied upon by the respondents could not be treated as sanction in law.