SHREE GURU KRIPA'S INSTITUTE OF MANAGEMENT

Advanced Auditing – CA Final

Latest Disciplinary Cases on Professional Ethics

Part I First Schedule

• **Certification of P&L A/c, with an error** of Rs.1,00,000 on the expenditure side of the Account, constitutes professional and / or other misconduct under Clause (7) Part I First Schedule. • However, in the absence of dishonesty, reprimand of the Member would be adequate and proper.	**Council of ICAI vs S.Ranganathan [High Court, (Ker)] [Nov 07 CA Journal Page 795]**
Filing of two income–tax returns by a CA in practice, one for his professional income, and another for his income as LIC Commission Agent, amounts to "**Other Misconduct**" under Clause 11 of Part I of First Schedule. The CA's name was removed from the Register of Members for a period of 1 year.	**Council of ICAI vs H Mohanlal Giriya [High Court (Kar)] [Dec 07 CA Journal Page 948]**
CA carrying the business on fraudulent manner amounts to professional misconduct under Clause (11) of Part I of First Schedule, and Other Misconduct u/s 21 and 22.	**ICAI vs Shri Sandeep Abbott [Delhi High Court] [Aug 09 CA Journal Page 220]**

Part I Second Schedule

Issuing False Certificate on existence of assets or investments constitutes **professional misconduct** under Clauses (5), (6), (7) and (8) of Part I of Second Schedule. The CA's name was removed from the Register of Members for a period of six months.	**Council of ICAI vs C K Vyas [High Court of (Guj)] [Feb 08 CA Journal Page 1312]**
Failure to report violations by Company under the Companies Act, 1956 in Audit Report amounts to **professional misconduct** under Clause (7) of Part I of Second Schedule.	**Council of ICAI vs S.R.Bhandary [High Court of (Kar)] [Mar 08 CA Journal Page 1519]**
Issuing Certificate on Consumption/ Production without proper verification constitutes **professional misconduct** under Clauses (7) and (8) of Part I of Second Schedule.	**ICAI vs B K Kurhade [High Court of Bombay)] [June 08 CA Journal Page 2016]** **ICAI vs Shri Ramesh R Kapadia [Bombay High Court] [Aug 08 CA Journal Page 292]**
Certifying Form 10-B that no income or property of the Trust was used or applied for the benefit of persons referred u/s 13(3) of IT Act, 1961 **without physically verifying the Fixed Deposits**, amounts to **professional misconduct** under Clauses (7) and (8) of Part I of Second Schedule.	**ICAI vs Shri M D Loya [Bombay High Court] [Sep 08 CA Journal Page 461]**
Failure to discharge the duties responsibly by merely being satisfied with the answers of the Client amounts to **professional misconduct** under Clauses (5), (6), (7) and (8) of Part I of Second Schedule. The CA's name was removed from Register of Members for a period of 6 months.	**ICAI vs Shri V C Agarwal [Bombay High Court] [Oct 08 CA Journal Page 646]**
Issuing Certificate without proper verification of records and without knowing the contents to be true, relying upon another CA constitutes gross negligence and professional misconduct under Clause 7 of Part I of Second Schedule. The CA's name was removed from the Register of Members for a period of one month.	**ICAI vs Shri P V Mehta [Bombay High Court] [Nov 08 CA Journal Page 831]**

Doing Statutory Audit **without disclosing substantial interest** in the Company in the Auditor's Report violates Clause (4) of Part I of the Second Schedule.	**ICAI vs Shri Vijay R Ashar [Bombay High Court] [Dec 08 CA Journal Page 1006]**
Issuing Certificate without proper verification of records, relying upon the trust and good faith in other person, constitutes professional misconduct under Clauses (2), (7) and (8) of Part I of Second Schedule. The CA's name was removed from the Register of Members for a period of one month.	**ICAI vs Shri P U Patil [Bombay High Court] [Jan 09 CA Journal Page 1198]**
Issuing False Certificate under Tax Audit in order to save his Client from Penalty u/s 271B of the Income-tax Act, 1961, despite non-completion of audit due to non-availability of accounts, amounts to professional misconduct under Clause (8) of Part I of Second Schedule.	**ICAI vs Shri Raj Kumar N Iyer [Bombay High Court] [Feb 09 CA Journal Page 1377]**
Issuing False Certificate under Tax Audit to avoid the penalty u/s.271B of the Income-tax Act, 1961 without preparation of Balance Sheet and Profit & Loss Account amounts to professional misconduct under Clause (7) of Part I of Second Schedule. The CA is reprimanded.	**ICAI vs Shri R C Jain [Bombay High Court] [Mar 09 CA Journal Page 1600]**
Negligence while conducting Statutory Audit constitutes professional misconduct under Clauses (7) and (8) of Part I of Second Schedule. But if it occurs due to inadequate experience in the early years of practice and the CA is candid in accepting the guilt, then reprimand of the Member would be proper.	**ICAI vs Shri Ashit R Mehta [Bombay High Court] [Apr 09 CA Journal Page 1743]**
Signing of back–dated Tax Audit Report amounts to professional misconduct under Clauses (5), (6) and (7) of Part I of Second Schedule.	**ICAI vs Y M Mansuri [High Court (Guj)] [May 09 CA Journal Page 1879]**
Fraudulent utilization of the funds of the Client amounts to professional misconduct under Clause (10) of Part I of Second Schedule and other misconduct u/s 21 & 22.	**ICAI vs Shri Basab Kumar Sarkar [High Court Calcutta] [July 09 CA Journal Page 99]** **ICAI vs M K Sachdeva & Anr. [High Court of Delhi] [Dec 09 CA Journal Page 910]**
Though no fraud was occurred during the year under audit**, inaccuracies and ambiguities in audited accounts** amounts to professional misconduct under Clause (7) of Part I of Second Schedule.	**ICAI vs Shri Rajesh Rastogi [High Court of Delhi] [Sep 09 CA Journal Page 397]**
Issuing certificate in order to facilitate borrowings and confirmation on end use of funds without proper verification of records amounts to professional misconduct under Clauses (5), (6), (7) and (8) of Part I of Second Schedule.	**ICAI vs Shri R K Tayal & Anr. [High Court of Delhi] [Nov 09 CA Journal Page 737]**
Acting as Accountant as well as Auditor to the same Client, and also gross negligence in discharging his duties on both the angles amounts to professional misconduct under Clauses (6), (7), (8) & (9) of Part I of Second Schedule.	**ICAI vs K K Gupta & Anr [High Court of Delhi] [Jan 10 CA Journal Page 1065]**

Part II Second Schedule

Non-payment of stipend to Articled Clerks on monthly basis, and subjecting the Articled Clerk to work over normal working time, and non-observance of Central Government holidays including Sundays amounts to **professional misconduct** under Clause (1) of Part II of Second Schedule and contravenes Regulation 32B of CA Regulations.	**U V Benadikar vs N G Kulkarni [Bombay High Court] [Apr 08 CA Journal Page 1744]** **A R Chitlangi v P L Tapdiya [Bombay High Court] [May 08 CA Journal Page 1890]**

Other Misconduct

Submission of Bogus Bills/ Receipts for Halting Allowance expenses for audit of bank branches amounts to "**Other Misconduct**". The CA's name was removed from the Register of Members for a period of 15 days.	**Council of ICAI vs Rishi K Gupta [High Court of Delhi] [Jan 08 CA Journal Page 1130]**
CA was in possession of bogus Bank Certificates and blank acknowledgements of Income-Tax returns affixed with seal. Held guilty of "**other misconducts**" u/s 21 and 22 as he acted contrary to the conduct befitting a Chartered Accountant.	**ICAI vs A L Ghael [High Court (Guj)] [June 09 CA Journal Page 2054]**
Issuing vague certificate to facilitate the client to obtain Bank loans amounts to "**Other Misconduct**" u/s 21 & 22.	**ICAI vs Dayal Singh FCA & Anr [High Court of Delhi] [Oct 09 CA Jounal Page 589]**
Receipt of large amount of advance money, claiming excess expenses beyond entitlement, using the position as Statutory Auditor for personal benefits, and hiring the services of other CA who is neither Partner nor Employee, constitutes Other Misconduct u/s 21 and 22.	**ICAI vs Lokesh Dhawan [High Court of Delhi] [Feb 10 CA Journal Page 1230]**
CA floated NBFC as Vice-Chairman. Cheques issued by NBFC were dishonoured by the Bank. Also, NBFC failed to comply with CARE's and Company Law Board's Regulations from time to time. This constitutes Other Misconduct u/s 21 and 22.	**ICAI vs Deepak Parti & Anr [High Court of Delhi] [Mar 10 CA Journal Page 1424]**