



## **CODE OF ETHICS**

### **CHAPTER-1: INTRODUCTION**

As professionals in the field of Cost and Management Accounting, the members of our Institute are bound by a code of professional ethics. This code stipulates and binds them to the highest level of care, duty and responsibility to their employers and clients, the public and their fellow professionals.

ICWAI Guidelines shall-

(a) Set Standards for code of ethics of Cost Accountants such that a member will:

- (i) maintain at all times independence of thought and action;
- (ii) not express an opinion on cost / financial reports or statements without first assessing her or his relationship with her or his client to determine whether such Member might expect her or his opinion to be considered independent, objective and unbiased by one who has knowledge of all the facts; and
- (iii) When preparing cost / financial reports or statements or expressing an opinion on cost / financial reports or statements, disclose all material facts known to such Member in order not to make such cost / financial reports or statements misleading, acquire sufficient information to warrant an expression of opinion and report all material misstatements or departures from generally accepted accounting principles.
- (iv) not disclose or use any confidential information concerning the affairs of such Member's employer or client unless acting in the course of his or her duties or except when such information is required to be disclosed in the course of any defense of himself or herself or any associate or employee in any lawsuit or other legal proceeding or against alleged professional misconduct by order of lawful authority or any committee of the Society in the proper exercise of their duties but only to the extent necessary for such purpose;
- (v) inform his or her employer or client of any business connections or interests of which such Member's employer or client would reasonably expect to be informed;
- (vi) not, in the course of exercising his or her duties on behalf of such Member's employer or client, hold, receive, bargain for or acquire any fee, remuneration or benefit without such employer's or client's knowledge and consent; and
- (vii) take all reasonable steps, in arranging any engagement as a consultant, to establish a clear understanding of the scope and objectives of the work before it is commenced and will furnish the client with an estimate of cost, preferably before the engagement is commenced, but in any event as soon as possible thereafter.
- (viii) conduct himself or herself toward other Members with courtesy and good faith;

- (ix) not accept any engagement to review the work of another Member for the same employer except with the knowledge of that Member, or except where the connection of that Member with the work has been terminated, unless the Member reviews the work of others as a normal part of his or her responsibilities;
- (x) not attempt to gain an advantage over other Members by paying or accepting a commission in securing management accounting work;
- (xi) not act maliciously or in any other way which may adversely reflect on the public or professional reputation or business of another Member.
- (xii) at all times maintain the standards of competence expressed by the Institute from time to time;
- (xiii) undertake only such work as he or she is competent to perform by virtue of his or her training and experience and will, where it would be in the best interests of an employer or client, engage, or advise the employer or client to engage, other specialists;

## **CHAPTER - 2: OBJECTIVES**

These Guidelines recognize that the objectives of the accountancy profession are to work to the highest standards of professionalism, to attain the highest levels of performance and generally to meet the public interest requirement. These objectives require four basic needs to be met:

- (a) Credibility in information and information systems;
- (b) Professionalism identified by employers, clients and other interested parties;
- (c) Quality of service carried out to the highest standards of performance; and
- (d) Confidence that there is a framework of professional ethics to govern the provision of services.

In order to achieve the objectives of the accountancy profession, cost accountants have to observe fundamental principles, which are:

### **(a) Integrity**

A cost accountant should be straightforward and honest in performing his services.

### **(b) Objectivity**

A cost accountant should be fair and should not allow prejudice or bias or the influence of others to override objectivity.

### **(c) Competence**

A cost accountant must refrain from performing any service which he is not competent to carry out unless proper advice and assistance is obtained to ensure that the service is performed to the satisfaction.

**(d) Confidentiality**

A cost accountant must not disclose information acquired during the course of his engagement and should not use or disclose any such information without proper and specific authority or unless there is a legal or professional right or duty to disclose.

**(e) Professional Behaviour**

A cost accountant should act in a manner consistent with the good reputation of the profession.

In addition to the fundamental principles above a cost accountant in practice, should be and appear to be free of any interest which might be regarded, whatever its actual effect, as being incompatible with integrity, objectivity and independence.

### **CHAPTER - 3. THE COST AND WORKS ACCOUNTANTS ACT, 1959**

It is an Act for the regulation of the profession of Cost Accountants. The regulation is exercised through the Institute of Cost and Works Accountants of India. For the management of the affairs and for discharging the functions assigned to it by the Cost and Works Accountants Act, there is a Council of the Institute. The Council has been empowered to institute any enquiry into cases where it is prima facie of the opinion that a member is guilty of professional or other misconduct.

**Members who are deemed to be in practice**

Every member of the Institute is entitled to designate himself as a Cost Accountant. There are two classes of members, those who are in practice and those who are otherwise occupied.

In Section 2(2) of the Act, the term "to be in practice" has been defined as follows:

"A member of the Institute shall be deemed to be in practice when individually or in partnership with Cost Accountants in practice, he in consideration of remuneration received or to be received

- (i) engages himself in the practice of cost and works accountancy; or
- (ii) offers to perform or performs service involving the costing or pricing of good or services or the preparation, verification or certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or
- (iii) renders professional services or assistance in or about matters of principle or details relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or
- (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a Cost Accountant in practice: and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

Explanation:- A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub section.

Pursuant to Section 2(2) (iv) above, the Council has passed a resolution permitting a Cost Accountant in practice to render entire range of "Management Accounting and other Services".

The definition of the expression the "Management Accounting and other Services" is given below:

The expression 'Management Accounting and other Services' shall not include the function of cost audit, cost accounting records maintenance or advice concerning cost records maintenance or acting as liquidator, trustee, executor, administrator, arbitrator or receiver, but shall include the following:

- (i) Employment under Cost Accountants or firms of Cost Accountants.
- (ii) Maintaining books of accounts of any commercial, non-commercial, financial, non- financial organizations.
- (iii) Undertaking audit of any nature, not statutorily debarred, in any commercial, non- commercial, financial, non-financial organizations.
- (iv) Practicing as Management Consultant
- (v) Practicing as Tax Consultant
- (vi) Private tutorship.
- (vii) Authorship of books and articles
- (viii) Holding of Life Insurance Agency License for the limited purpose of getting renewal commission.
- (ix) Attending classes and appearing for any examination, academic or professional.
- (x) Honorary office-bearership of charitable, educational or other non-commercial organizations.
- (xi) Acting as Notary Public, Justice of the Peace, Special Executive Magistrate and the like.
- (xii) Tutorship for courses under the aegis of the Institute or of the Regional Councils.
- (xiii) Valuation of papers, acting as paper-setter, head-examiner or a moderator for any examination.
- (xiv) Acting as surveyor and Loss Assessor under the Insurance Act, 1938.
- (xv) Acting as Recovery consultant in the Banking Sector.
- (xvi) Holding Public Elective Office such as M.P., MLA & MLC

The council has also defined " Management Consultancy Services" in order to remove any ambiguity under clause (iv) above and the same is given below.

"The expression 'Management Consultancy Services' shall not include the function of statutory periodical audit, tax (both direct taxes and indirect taxes) representation or advise concerning tax matters or acting as liquidator, trustee, executor, administrator, arbitrator or receiver, but shall include besides all functions done as cost accountant the following:

- (i) Financial management planning and financial policy determination.
- (ii) Cost management planning and costing policy determination.

- (iii) Capital structure planning and advice regarding raising finance.
- (iv) Working capital management.
- (v) Preparing project reports and feasibility studies.
- (vi) Preparing cash budget, cash flow statements, profitability statements, statements of sources and application of funds.
- (vii) Budgeting including capital budgets and revenue budgets.
- (viii) Inventory management, material handling and storage.
- (ix) Market research and demand studies.
- (x) Price-fixation and other management decision making.
- (xi) Management accounting systems including TCM, TQM, BPR, cost control and value analysis.
- (xii) Control methods and management information and reporting.
- (xiii) Personnel recruitment and selection.
- (xiv) Setting up executive incentive plans, wage incentive plans etc.
- (xv) Management, operational, quality, environmental and energy audits.
- (xvi) Valuation of shares and business and advice regarding amalgamation, mergers and acquisitions etc.
- (xvii) Business policy, corporate planning, organisation development, growth and diversification.
- (xviii) Organisation structure and behaviour, development of human resources including design and conduct of training programmes, work study, time study, job-description, job evaluation and evaluation of work loads.
- (xix) Systems analysis and design and computer related services including selection of hardware and development of software in all areas of services which can otherwise be rendered by a cost accountant in practice and also to carry out any other professional services relating to EDP, e-filing etc.
- (xx) Acting as advisor or consultant to an issue, including such matters as:-
  - (a) drafting of prospectus and memorandum containing salient features of prospectus. Drafting and filing of listing agreement and completing formalities with Stock Exchanges, Registrar of Companies and SEBI.
  - (b) Preparation of publicity budget, advice regarding arrangements for selection of (i) ad-media (ii) centres for holding conferences of brokers, investors etc. (iii) bankers to issue (iv) collection centres (v) brokers to issue (vi) underwriters and the underwriting arrangement, distribution of publicity and issue material including application form, prospectus and brochure and deciding on the quantum of issue material ( In doing so, the relevant provisions of the Code of Conduct must be kept in mind).
  - (c) Advice regarding selection of various agencies connected with issue, namely Registrar to issue, printers and advertising agencies.
  - (d) Advice to the post issue activities, e.g. follow up steps which include listing of instruments and despatch of certificates and refunds with the various agencies connected with the work.

Explanation: For removal of doubts, it is hereby clarified that the activities of broking, underwriting and portfolio management are not permitted.

- (xxi) Investment counselling in respect of securities [ as defined in the Securities Contracts ( Regulation) Act, 1956 and other financial instruments.] ( In doing so, the relevant provisions of the Code of Conduct must be kept in mind).
- (xxii) Acting as registrar to an issue and for transfer of shares / other securities. ( In doing so, the relevant provisions of the Code of Conduct must be kept in mind).
- (xxiii) Acting as recovery consultant in Banking Sector
- (xxiv) Insurance Financial Advisory services under the Insurance Regulatory Development Authority Act, 1999, including Insurance Brokerage.

A Cost Accountant whose name has been removed from the membership for professional and/or other misconduct, during such period of removal, will not appear before the various tax authorities or other bodies before whom he could have appeared in his capacity as a member of this Institute.

**A Member in practice is prohibited from using a designation other than Cost Accountant.**

Under Section 7 of the Cost and Works Accountants Act, 1959 a member in practice cannot use any designation other than that of a Cost Accountant, nor can he use any other description, whether in addition thereto or in substitution therefor, but a member who is not in practice and does not use the designation of a Cost Accountant may use any other description. Nevertheless a member in practice may use any other letters or description indicating membership of Accountancy Bodies which have been approved by the Council or of bodies other than, Accountancy Institutes so long as such use does not imply adoption of a designation and/or does not amount to advertisement or publicity.

For example, though a member cannot designate himself as a Chartered Accountant, he can use the letters A.C.A./ F.C.A after his name, when he is a member of that Institute. .

**Disabilities for purpose of Membership**

Section 8 of the Act enumerates the circumstances under which a person is debarred from having his name entered in or borne on the Register of Members, as follows:

(i) If he has not attained the age of twenty one years at the time of his application for the entry of his name in the Register; or

(ii) If he is of unsound mind and stands so adjudged by a competent court; or

(iii) If he is an undischarged insolvent; or

(iv) If he being a discharged insolvent, has not obtained from the court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or

(v) If he has been convicted by a competent court whether within or without India, of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf the Central Government has, by an order in writing, removed the disability; or

(vi) If he has been removed from membership of the Institute on being found on inquiry to

have been guilty of professional or other misconduct: \_ .

Provided that a person who has been removed from membership for a specified period, shall not be entitled to have his name entered in the Register until the expiry of such period.

Failure on the part of a person to disclose the fact that he suffers from any of the disabilities aforementioned would constitute professional misconduct. The name of the person who is found to have been subject at any time to any of the disabilities aforementioned, can be removed from the Register of Members by the Council. (Section 20).

**Procedure in enquiries for disciplinary matters relating to misconduct of the members of the Institute and important Council's decisions thereon.**

Section 21 of the Act read with Regulations 12 to 18 has laid down the following procedure in regard to enquiries into misconduct of members:

(a) On receipt of information by, or of a complaint made to it, the Council arrives at, a *prima facie* opinion whether or not a member of the Institute is guilty of any professional or other misconduct. The use of the words "or other" is important, in-as-much as the Council thereby is empowered to inquire into any misconduct of a member even if it does not arise out of his professional work. A complaint once lodged will not be permitted to be withdrawn.

(b) If the Council is *prima facie* of opinion that a member of the Institute has been guilty of any professional or other misconduct, the Council refers the case to the Disciplinary Committee which holds an enquiry and reports the result of its enquiry to the Council.

(c) The Disciplinary Committee shall consist of the President, ex-officio, one member to be nominated by the Central Government from amongst the members nominated to the council by that Government and one member to be elected by the Council.

(d) If the member pleads guilty, the Disciplinary Committee shall record the plea and submit its report to the Council. The member has a right to defend himself before the Disciplinary Committee either in person or through a legal practitioner or any other member.

(e) If during the course of enquiry there occurs a change in the membership of the Disciplinary Committee for any reason, whatsoever, any party to the enquiry may demand that the enquiry be held *de novo* and when such a demand is made, the Disciplinary Committee may, for sufficient cause and for reasons to be recorded in writing, hold the enquiry *de novo*.

(f) The Disciplinary Committee submits its report to the Council.

(g) Where the report of the Disciplinary Committee is that the member is guilty of professional and/or other misconduct, a copy of the Report of the Disciplinary Committee is furnished to the member and he is given the opportunity of hearing by the Council.

(h) The Council considers the report of the Disciplinary Committee alongwith the representation of the member, if any, and if in its opinion, a further enquiry is necessary, causes such further enquiry to be made whereupon a further report is submitted by the

## Disciplinary Committee.

(i) The Council on consideration of the Report, the further Report, if any, and the representation of the member, if any, records its findings. Provided that if the report of the Disciplinary Committee is that the Respondent is not guilty of any professional or other misconduct, the Council shall not record its findings contrary to the report of the Disciplinary Committee.

The Council has the power to call for further report from the Disciplinary Committee on non-guilt of the professional or other misconduct of the respondent. In case, on the second occasion, the report of the Disciplinary Committee still holds the delinquent member not guilty, there is no option left to the Council, and it has to record finding of no guilt, since the power of calling for further report would stand exhausted.

(j) If the Council, in view of its findings, is of opinion that there is a case for passing an order under sub-Section (4) of Section 21, it furnishes a copy of its findings to the member and gives him a notice calling upon him to appear before it on a specified date or if he does not wish to be heard in person, to send within a specified time such representation in writing in connection with the order to be passed against him under sub-Section (4) of Section 21. The Council, after hearing the member and/or after considering his representation passes its orders either reprimanding the member or removing his name from Register of Members for such period not exceeding five years. If the order is for removing the name from Register of Members for a period exceeding five years, it will forward the case to the High Court with its recommendations.

(k) If the misconduct of a member is such which is other than that referred to in Section 21 (4) of the Act, the Council must refer the case to the High Court with its recommendations.

(l) On a case being referred to the High Court, the High Court may decide the case as it deems fit.

(m) The Council is entitled to inquire into the conduct of a person who was a member of the Institute but has ceased to be so at the time of the inquiry. (Explanation II to sub-Section (7) of Section 21.)

(n) The Council and the Disciplinary Committee can exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:

(i) summoning and enforcing attendance of any person and to examine him on oath;

(ii) the discovery and production of any document; and

(iii) receiving evidence on affidavit.

(o) An aggrieved member may appeal to the High Court against the orders of the Council imposing any of the penalties referred to in Section 21 (4). The High Court may pass such orders as it may deem fit.

In a case relating to a member from the sister professional body an important judgement was given by the Hon'ble Supreme Court. According to the verdict in the case of L.K.Ratna and others, the following procedure is to be followed:

(a) The Report of Disciplinary Committee is sent to the member concerned before being considered by the Council.

(b) The concerned member is informed that in addition to his sending a written representation, he is also entitled to be heard in person, if he so desires.

(c) The member concerned, if he so desires, is allowed to be represented before the Council, only by another member of the Institute.

(d) As in the case of the Respondent, the Complainant also is given an opportunity of being heard. He is informed that in addition to his sending a written representation, he is also entitled to be heard in person, if he so desires. He is allowed to be represented only by another member of the Institute, if he so desires.

(e) The normal rule is not to permit any fresh evidence after the Disciplinary Committee submits its report. However, the additional evidence which comes into the possession of the concerned member after the Disciplinary Committee heard him, may be allowed at the sole discretion of the Council, if such additional evidence is necessary to do justice.

(f) A member who is a signatory to the report or who has been the member of the Disciplinary Committee at any stage during the hearing of that case, shall neither participate nor appear in any other capacity, in the discussion of the Council at the time of consideration of the report of the Committee in the said case.

At the time of scrutinizing a complaint only *prima-facie* opinion is formed as to whether the complaint should be referred to the Disciplinary Committee or not and that no conclusion is reached at that stage in regard to the guilt of the member concerned. Therefore, the President, Vice-President or any other member of the Council who is present in the Council meeting at the time of formulation of the *prima-facie* opinion as to the referring of the matter to the Disciplinary Committee, is not debarred from attending the meetings of the Disciplinary Committee while hearing that particular complaint. Further, it is not improper for the President, Vice-President or any other member of the Council who looked into a complaint at the *prima-facie* stage and forwarded it to the Disciplinary Committee, to be present in the Council, after the report is received from the Disciplinary Committee in which they have not participated.

The Council shall not re-open and review its earlier decision in a disciplinary case taken either (i) at the *prima-facie* stage or (ii) at the stage of determination whether guilty/not guilty on consideration of the report of the Disciplinary Committee, as the power of review is a power which must be given by the statute itself and that no such power has been given to the Council.

As a healthy practice, sitting Council members, sitting co-opted members on any of the committees of the Council and former Council member, should not appear either before the Disciplinary Committee or the Council in any disciplinary matter, the *prima-facie* opinion of which was decided by the Council during his/her tenure as a member of the Council, irrespective of whether he/she was present in the Council when that particular case was considered/discussed/decided by the Council.

The following categories of persons are also not allowed to appear as Counsel to parties in hearings before the Disciplinary Committee/Council:

1. Any person who was a member of the Disciplinary Committee when the case was at any time heard/considered by the Committee.
2. Past President/Vice-President of the Institute in respect of cases examined/perused by them in their capacity as President, Vice-President at the relevant time.
3. Past Secretary of the Institute in cases which were under consideration of the Institute during his tenure as the Secretary of the Institute.
4. Past Directors of the Institute, in cases which were under consideration of the Institute during their tenure as Directors of the Institute.
5. Retired officials of the Institute who were functioning in the Legal/Disciplinary Department in respect of cases which were under consideration of the Institute during their posting in Legal/Disciplinary Department.
6. All the officials of the Institute including the above for a period of three years from their leaving the services of the Institute.

Further, in the hearing before the Disciplinary Committee, past Council Members are also not allowed to appear in any case for three years after their cessation as Council Members.

### **Professional misconduct defined**

Section 22 of the Act read with the Schedules to the Act as already stated, contains an illustrative, though not exhaustive definition of "Professional misconduct". These constitute the Code of professional conduct applicable to Cost Accountants.

### **"Other Misconduct"**

A member is liable to disciplinary action under Section 21 of the Cost and Works Accountants Act, if he is found guilty of any professional or "other misconduct". "Other misconduct" has not been defined in the Act. This provision empowers the Council to enquire into any misconduct of a member even if it does not arise out of its professional work. This is considered necessary because a Cost Accountant is expected to maintain the highest standards of integrity even in his personal affairs and any deviation from these standards, even in his non-professional work, would expose him to disciplinary action. For example, a member who is found to have forged the will of a relative, would be liable to disciplinary action even though the forgery may not have been done in the course of his professional duty.

"Other misconduct" would also relate to conviction by a competent court for an offence involving moral turpitude punishable with transportation or imprisonment or to an offence not of a technical nature committed by the member in his professional capacity [See Section 8 (v) of the Act].

Members are urged in their own interest to keep the aforesaid provisions in view and maintain requisite standards both in their professional and other conduct.

### **Penalty for falsely claiming to be a Member etc.**

Section 24 of the Cost and Works Accountants Act, 1959 provides:

Any person who -

- (i) not being a member of the Institute -
  - (a) represents that he is a member of the Institute; or
  - (b) uses the designation Cost Accountant; or

(ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practices as a Cost Accountant, shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both.

### **Maintenance of Branch Offices**

In terms of Section 37 of the Act if a Cost Accountant in practice or a firm of Cost Accountants has more than one office in India, each one of such offices should be in the separate charge of a member of the Institute. Failure on the part of a member or a firm to have a member in charge of its branch and a separate member in case of each of the branches, where there are more than one, would constitute professional misconduct.

### **Procedure with regard to noting by the Institute of retirement of Partner(s) of a firm.**

1. On receipt of a notice of retirement *from* partner(s) of a firm, a communication would be sent to the other partner(s) of the firm to confirm within a specified period about the retirement of the partner(s) who had sent the notice to the Institute.
2. In case the other partner(s) do not confirm the retirement within the specified date or do not send the confirmation before the said date, the retirement of the partner(s) having sent the notice of the retirement *from* the firm would be noted in the records of the Institute.
3. In case of intimation of existence of dispute between/among partners received *from* the firm/other partners a suitable note would be kept in the records of the Institute and retirement will not be noted.

## **CHAPTER – 4: COST ACCOUNTING STANDARDS, STATEMENTS ON STANDARD AUDITING PRACTICES AND GUIDANCE NOTES**

The Cost Accounting Standards, Statements on Standard Auditing Practices and Guidance Notes establish standards which have to be complied with to ensure that costing statements are prepared in accordance with generally accepted Cost accounting standards and that auditors carry out their audits in accordance with the generally accepted auditing practices.

They become mandatory on the dates specified in the respective document or notified by the Council.

### **Cost Accounting Standards**

Cost Accounting Standards are formulated by the Cost Accounting Standards Board and issued by the Council of the Institute.

The Cost Accounting Standards are issued for use in the presentation of Cost statements. They become mandatory on the dates specified in the respective Accounting Standards or notified by the Council in this behalf.

A) Every Cost Statement shall comply with the cost accounting standards.

(B) Where the Cost Statements of the company do not comply with the Cost Accounting standards, such companies shall disclose the following, namely:

(i) the deviation from the standards;

(ii) the reasons for such deviation; and

(iii) the effect, if any, arising due to such deviation.

(C) For the purpose of this section, the expression "Cost Accounting standards" means the Standards of Cost Accounting mandated by the Institute of Cost and Works Accountants of India

The 'Preface to the Cost Accounting Standards states :-

1. The 'standards' issued by CASB will be recommendatory in nature and every member of the institute is expected to honour the same.

2. A standard will always make sure that it complies with the legal regulations in respect of the matter covered by it. However, a standard by its very nature will have to be more definite and specific than its legal requirements.

3. Any limitation in application of a 'standard' in specific circumstances must be spelt out in the 'standard' itself.

4. Every standard will broadly have two parts – (a) explanatory part and (b) the operative part. The explanatory section will set out topic covered, the premises, the need for standardization and methodology and rationale for practice recommended. The second part, the operative portion will be the definite direction on the matter.

5. Every standard will indicate the date from which it will be operative.

6. The standards will be applicable to preparation of cost statements and other documents where the concepts embedded in the standard will be applicable.

7. As far as maintenance of cost accounting record rules under section 209 (1) (d) is concerned, relevant matter covered under the standards , wherever applicable, will be followed.

8. Cost Auditors will adopt and encourage the adoption of the standards, wherever applicable, in maintenance of Cost Accounting Record Rules under section 209(1)(d) and report the deviations, if any, in the Cost Audit Reports under section 233B.

9.The Institute will take up the standards with National Accounting Standard Board to enforce them and to include in Companies Act, 1956.

The following Cost Accounting Standards are to be complied with as required under Cost Accounting Records Rules:-

| <b>CAS</b> | <b>Title</b>                               | <b><u>Date from which Mandatory</u></b> |
|------------|--------------------------------------------|-----------------------------------------|
| CAS-1      | Classification of Cost                     | June, 2002                              |
| CAS-2      | Capacity Determination                     | January, 2003                           |
| CAS-3      | Overheads                                  | January, 2003                           |
| CAS-4      | Cost of Production for Captive Consumption | January, 2003                           |

### **Examples of Qualifications/Disclosures in the Cost Audit Report**

(a) “The cost accounting system existing in the company is adequate to determine correctly the cost of sales of the product subject to-

system for establishing and allocating the export expenses to various Units/ product lines -----.”

(b) “the cost accounting system existing in the company is not adequate to determine

correctly the cost of production of the product. The allocation of Head Office (Corporate) Expenses is done on the basis of Gross Sales quantity which has no relevance as a basis of allocation of HO expenses to different Units.”

- (c) We have been unable to verify the sales value separately for Unit I located at \_\_\_\_\_ and Unit II located \_\_\_\_\_ since the sales are effected through the regional Offices and the Branches of the company wherein bifurcation of unit-wise sales data is not maintained. Hence we are unable to state whether the bifurcation of sales values between Unit I and Unit II show a true and fair view of the Sales.”

## **GUIDANCE NOTES**

'Guidance Notes' are primarily designed to provide guidance to members on matters which may arise in the course of their professional work and on which they may desire assistance in resolving issues which may pose difficulty.

Guidance Notes are recommendatory in nature. A member should ordinarily follow recommendations in a guidance note .

“If the same have not been followed, the member should consider whether keeping in view the circumstances of the case, a disclosure in his report is necessary”

## **CHAPTER –5: SCHEDULES TO THE ACT**

Acts or omissions which comprise professional misconduct within the meaning of Section 22 of the Cost and Works Accountants Act are defined in two Schedules viz the First Schedule and the Second Schedule. The First Schedule is divided into three parts. Part I of the First Schedule deals with the misconduct of a member in practice which would have the effect generally of compromising his position as an independent person. Part II deals with misconduct of members in service and Part III deals with the misconduct of members generally. The Second Schedule is divided into two parts. Part I deals with misconduct in relation to a member in practice and Part II deals with misconduct of members generally. The implications of the different clauses in the Schedules are discussed below:

### **THE FIRST SCHEDULE**

If a member is found guilty of any of the acts or omissions stated in any of the parts of this Schedule, the Council shall pass appropriate orders except in a case in which the name of the member ought, in the view of the Council, to be removed from the Register for a period exceeding five years or permanently.

#### **PART I**

##### **Professional misconduct in relation to Cost Accountants in practice**

A Cost Accountant in practice shall be deemed to be guilty of professional misconduct, if he:

**Clause (1):** allows any person to practice in his name as a Cost Accountant unless such person is also a Cost Accountant in practice and is in partnership with or employed by himself;

The above clause is intended to safeguard the public against unqualified accountants practicing under the cover of qualified cost accountants. It ensures that the work of the cost accountant will be carried out by a Cost Accountant who may be his partner or his employee and who would work under his control and supervision.

**Clause (2):** pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner;

**Explanation:** In this item "partner" includes a person residing outside India with whom a Cost Accountant in practice has entered into partnership which is not in contravention of item (4) of this part.

It is in order for a member to share his fees or profits with another member of the Institute or a firm of Cost Accountants. However, it would not be permissible for a member to share his fees or profits with a person who is not a member of the Institute-say an Advocate or an Estate Agent. This rule is directed against arrangements or understandings, whereby for a consideration, professional work will be introduced to a member by a third party.

## **Goodwill**

When there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing of fees or otherwise for some specified period. There could not be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the Sole proprietor of the firm. Payment of goodwill to the widow is permissible in such cases only for the goodwill of the firm and to enable such payments to be made in instalments provided the agreement of the sale of goodwill contains such a provision. These payments even if they are spread over the specified period should not be linked up with participation in the earnings of the firm. The widow of a partner when the partnership agreement does not contain a provision entitling her to share in profits, would not be entitled to such profits.

**Clause (3):** accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute;

Just as a member cannot share his fees with a non member, he is also not permitted to receive and share the fees of others such as lawyers, engineers, brokers etc. Such a restriction is necessary so that a Cost Accountant who is often required to engage or to recommend for engagement by his clients, the services of the members of other professions, such as, lawyers, engineers etc., may not share the fees received by other professional persons.

**Clause (4):** enters into partnership with any person other than a Cost Accountant in practice or a person resident without India who but for his residence abroad would be entitled to be registered as a member under Clause (v) of sub-Section (1) of Section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships, provided that the Cost Accountant shares in the fees or profits of the business of the partnership both within and without India;

A Cost Accountant is not permitted to enter into-partnership with any person other than a Cost Accountant in practice.

**Clause (5):** secures, either through the services of a person not qualified to be his partner or by means which are not open to a Cost Accountant, any professional business;

"A man must stand erect, and not be kept erect by others" is a dictum by Marcus Aurelius which though applicable for a man in every walk of life is more so in the case of a professional. He must seek work not through any agency, but by the respect that he is able to command for his professional talent and skill and by the confidence he is able to inspire by his reputation. All forms of canvassing on that account are regarded unethical and are prohibited.

**Clause (6):** solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means;

It is an elaboration of the principle propounded in the preceding clause enjoining that for securing professional work the help of others should not be sought. This clause further enjoins on a member not to solicit professional work by means of advertisement, circular, personal communication or interview or by any other means. The members should not adopt any indirect methods to advertise their professional practice with a view to gain publicity and thereby solicit clients or professional work. Such a restraint must be practiced so that members may maintain their independence of judgement and may be able to command the respect of their prospective clients.

In the early years of their professional career, members may find this restraint inconvenient and irksome. A question may arise in their minds as to how they would be able to find professional work if they are not permitted to advertise or solicit work. A little reflection would show that professional work cannot be secured either by advertisement or by circulars or by solicitation. It can only be obtained by a member gradually building confidence in his ability and integrity. The service rendered by an accountant is of a personal and intimate nature and its value can be appraised only by personal contact and experience. A public advertisement is likely to lead to an impression that the professional person is over-anxious to win confidence which however will have the opposite effect. The satisfaction of clients would be the best advertisement which would lead to other clients. Unabashed advertisement would affect the public esteem in which the profession is held and would act to the disadvantage of its members. An advertisement is not a key to success in the profession. It is the quality of service which attracts and retains the clients.

Some forms of soliciting work are discussed below

#### **(a) Advertisement and Notes in the press**

Members should not advertise for soliciting work or advertise in a manner which could be interpreted as soliciting or offering to undertake professional work. They are also not permitted to use the less open method of circulating letters to a small field of possible clients. Personal canvassing or canvassing for clients of a previous employer through the help of the employees are also not permitted.

The exceptions to the above rule are

(i) A member may advertise changes in partnerships or dissolution of a firm, or of any change in the address of practice and telephone numbers. Such announcements should be limited to a bare statement of *facts* and consideration given to the appropriateness of the area of distribution of the newspaper or magazine and number of insertions.

(ii) A member is permitted to issue a classified advertisement in the Journal/Newsletter of the Institute Intended to give information *for* sharing professional work on assignment basis or *for* seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, *fax* number and E-mail address.

#### **(b) Application for empanelment for allotment of audit and other professional work.**

The government departments, government companies/ corporations, courts, co-operative societies and banks and other similar institutions prepare panels of Cost Accountants *for* allotment of audit and other professional work. Where the existence of such a panel is within the knowledge of a member, he is *free* to write to the concerned organization with a request to place his name on the panel. However, it would not be proper *for* the Cost Accountant to make roving enquiries by applying to any such organization *for* having his name included in any such panel.

It is permissible to quote *fees* on enquiries being received *from* the above bodies which maintain such panel. It is, however, not proper *for* the members to send printed or cyclostyled copies of the scales of *fees* in reply to such enquiries.

Members are also advised that they should not respond to such empanelment in which the payment of any registration or other *fee* or deposit is required.

An advertisement *for* any part-time work undertaken by practicing Cost Accountants, would not be permissible because it would essentially be an offer of professional services and therefore would offend the rule.

(c) Publication of Name or Firm Name by Cost Accountants in the Telephone or other Directories published by Telephone Authorities or Private Bodies

It would not be proper for a Cost Accountant to have entries made in a Telephone Directory either by making a special request or by means of an additional payment. Such entries may be subject to the following restrictions:

1. The entry should appear in the section/category of "Cost Accountants".

2. The member/firm should belong to the town/city in respect of which the directory is being published.
3. The entry should be in normal type of letters. Entry in bolder type or abnormal type of letters or in a box is not permissible.
4. The order of the entries should be alphabetical and logical.
5. The entry should not appear in a manner giving the impression of publicity/advertisement. Entry should not be given in a manner which gives prominence to it as compared to other entries.
6. The payment, if any, for the entry should not be unreasonable.
7. The entries should not be restricted and should be open to all the Cost Accountants/firms of Cost Accountants in the particular city/town in respect whereof the directory is published.
8. Subject to the above conditions, the members can also include their names in trade directories which are published and/or otherwise available such as electronic media e.g. internet, telephone services like "Ask Me Services" etc.

**(d) Responding to Tenders, Advertisements and Circulars**

Members should not:

- (i) respond to advertisements inviting applications for appointment of auditors;
- (ii) respond to tenders or circulars inviting quotations for professional services restricted to Cost Accountants either by statute or in terms of tender or circular; and
- (iii) respond to an enquiry asking for quotation of fees in circumstances indicating that such enquiry has been made to more than one members and as such the same partakes the nature of a circular or tender.

While no relaxation may be given in the matter of responding to tenders in the audit field which is exclusive to Cost Accountants, in other areas where members competed with non-Cost Accountants, the restrictions be relaxed. Further, members are permitted to respond to tenders even in the audit field outside the country if permitted under the local laws provided the professional fees are received in foreign currency.

**(e) Issuing Hand Bills**

A member is prohibited from distributing hand bills ostensibly for the guidance of persons other than his regular clients in matters such as changes in tax laws.

**(f) Publication of Books or Articles**

A member is not permitted to indicate in a book or an article, published by him, the association with any firm of Cost Accountants.

**(g) Issue of greeting cards or invitations**

It is not proper to issue greeting cards or personal invitations by members indicating their professional designation, status and qualifications etc. However, the designation "Cost Accountant" as well as the name of the firm may be used in greeting cards, invitations for marriages and religious ceremonies and any invitations for opening or inauguration of office of the members, change in office premises and change in telephone numbers, provided that such greeting cards or invitations etc. are sent only to clients, relatives and friends of the members concerned.

**(h) Soliciting professional work by making roving enquiries**

It is not permissible for a member to address letters or circulars to persons who are likely to require services of a Cost Accountant since it would tantamount to advertisement.

**(i) Seeking work from professional colleagues**

The issue of an advertisement or a circular by a Cost Accountant, seeking work-from professional colleagues on any basis whatsoever except as provided in (a) (ii) above would be in violation of this Clause.

(k) Acceptance of original professional work by a member emanating from the client introduced to him by another member

A member should not accept the original professional work emanating from a client introduced to him by another member. If any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.

**(l) Giving public interviews**

While giving any interview or otherwise furnishing details about themselves or their firms in public interviews or to the press or at any forum, the members should ensure that, it should not result in publicity. Due care should be taken to ensure that such interviews or details about the members or their firms are not given in a manner highlighting their professional attainments.

**(m) Members and/or firms who publish advertisements under Box numbers**

Members/Firms are prohibited from inserting advertisements for soliciting clients or professional work under box numbers in the newspapers. This practice is in violation of this clause.

**(n) Website**

The council has approved the detailed guidelines for posting the particulars on web site by Cost Accountants in practice and firm(s) of Cost Accountants in practice. The guidelines are given below:

1. The Cost Accountants and / or Cost Accountants Firms would be free to create their own Web site subject to the overall guidelines laid down by the Council hereunder. The actual format of the Web site is not being prescribed nor any standard format of

the Web site is being given to provide independence to the Members. There is no restriction on the colours which may be used in the Web site.

2. Individual Members would also be permitted to have their Web pages in their trade name or individual name.
3. The Cost Accountants and / or Cost Accountants' Firms would ensure that their Web sites are run on a "pull" model and not a "push" model of the technology to ensure that any person who wishes to locate the Cost Accountant or Cost Accountants' firms would only have access to the information and the information should be provided only on the basis of specific "pull" request.
4. The Cost Accountants and / or Cost Accountants' Firms should ensure that none of the information contained in the Web site be circulated on their own or through E-mail or by any other mode or technique except on a specific "pull" request.
5. The Cost Accountants would also not issue any circular or any other advertisement or any other material of any kind whatsoever by virtue of which they solicit people to visit their Web site. The Cost Accountants would, however, be permitted to mention their Web site address on their professional stationery.
6. The following information may be allowed to be displayed on the Firms / Members' Web sites :
  - (i) Member / Trade / Firm name.
  - (ii) Year of establishment.
  - (iii) Member / Firms' Address (both Head Office and Branches)  
Tel. No(s)  
Fax No(s)  
E-mail ID(s)
  - (iv) Nature of services rendered (to be displayable only on specific pull request)
  - (v) Partners

| Partners<br>Name | Year of<br>Qualifi-<br>cation | Other<br>Qualifi-<br>cation(s) | Tel.No.<br>Off.-Direct<br>Res.<br>Mobile<br>E-mail<br>Address | Area of<br>Experience (to<br>Be displayable<br>only on specifi<br>"pull" request) |
|------------------|-------------------------------|--------------------------------|---------------------------------------------------------------|-----------------------------------------------------------------------------------|
|------------------|-------------------------------|--------------------------------|---------------------------------------------------------------|-----------------------------------------------------------------------------------|

(vi) Details of Employees:-

| Professional | Others | Name | Designation | Area of experience<br>(to be displayable<br>only on specific |
|--------------|--------|------|-------------|--------------------------------------------------------------|
|--------------|--------|------|-------------|--------------------------------------------------------------|

**(vii) Job vacancies for the Cost Accountant / firm of Cost Accountants**

- (viii) Nature of assignments handled (to be displayable only on specific “pull” request)  
Names of clients and fee charged cannot be given.
- (7) Since Cost Accountants in practice / Firms of Cost Accountants are not permitted to use logo on the Web site.
- (8) Display of Passport size photograph is permitted.
- (9) The members may include articles, professional information, professional up dation and other matters of larger importance or of professional interest.
- (10) The bulletin boards can be provided.
- (11) The chat rooms can be provided which permit chatting amongst members of the ICWAI and between Firms and its clients. The confidentiality protocol would have to be observed.
- (12) The members / Firms can provide on line advice to their clients who specifically request for the advice whether free of charge or on payment.
- (13) The listing on suitable search engine should be permitted. However, the field of search should be restricted only to the field of “Cost Accountants” or Indian Cost Accountant” or any permutation or combination related thereto. The Websites would be subjected to the Guidelines contained herein and normally would not be vetted by the Institute of Cost & Works Accountants of India (ICWAI). ICWAI at its sole discretion may vet any of the Websites created by its members or individual Cost Accountant or Firms of Cost Accountants and would have powers to direct deletion of certain portions and / or issue specific directions. In addition, necessary action can be taken in accordance with the Cost Accountants Act, 1959 and the Regulations framed thereunder in case there is any violation of the above guidelines.
- (14) The details in the Website should be so designed that it does not amount to soliciting client or professional work or advertisement of professional attainments or services. In case any content or technical feature of Website is against the professional Code of Conduct and Ethics as well as the restrictions contained in the schedules to the Cost Accountants Act, 1959 or against the guidelines or directions issued by ICWAI from time to time, appropriate action will be initiated by the ICWAI in terms of its disciplinary mechanism either suo-motu or on complaint as provided under the Cost Accountants Act, 1959.
- (15) The Website should ensure adequate secrecy of the matters of the clients handled through Website.
- (16) A number of Cost Accountants Societies or other bodies are creating data-bases of Cost Accountants or Cost Accountants’ Firms and are offering listing to Cost Accountants’. Such listing would be permitted with or without payment. In case a Cost Accountant or Cost Accountants’ Firm is a member of a professional body or association or Chamber of Commerce and they offer listing to the members or firm, the same would be permitted.
- (17) The Institute of Cost & Works Accountants of India will regularly inform the aforesaid Guidelines to the members and the Cost Accountants’ Firms to ensure the strict compliance of the Guidelines. The guidelines may be revised from time to time.
- (18) No Advertisement in the nature of banner or any other nature will be permitted on the Website.
- (19) The Website should be befitting the profession of Cost Accountants and should not contain any information or material which is unbecoming of a cost accountant.
- (20) The Website may provide a link to the Website of ICWAI, its Regional Councils and Branches and also the Website of Govt. / Govt Departments / Regulatory authorities / other Professional Bodies, such as, CIMA.

- (21) The address of the Website can be different from the name of the firm. But it should not amount to soliciting clients or professional work or advertisement of professional attainments or services. The Website address should be as near as possible to the individual name / trade name, firm name of the Cost Accountant in practice or firm of Cost Accountants in practice. The Committee on Ethical Standards of ICWAI will decide in case there is any difficulty.
- (22) The address of the Website should be intimated to the ICWAI within 30 days.
- (23) The Website should mention the date up to which it is updated and the information should not be at material variance from the information as per the ICWAI's records.

A number of non-Cost Accountants' firms, corporates including banks, finance companies and newspapers have set up their own Websites providing advisory services on taxation and other areas where Cost Accountants are rendering professional service. Some of such Websites may request Cost Accountants or Cost Accountants' firms to provide consultation and advice through their Websites. This would be permitted subject to the condition that on the Website, contact address of the Cost Accountant concerned is not provided nor such Website will contain any material which advertises professional achievements or status of such Cost Accountant except making a statement that they are Cost Accountants.

Clause (7): advertises his professional attainments or services, or uses any designation or expressions other than Cost Accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Cost Accountants or of any other institution that has been recognised by the Central Government or may be recognised by the Council;

This clause prohibits advertising of professional attainments or services of a member. It also restrains a member from using any designation or expression other than that of a Cost Accountant in documents through which the professional attainments of the member would come to the notice of the public.

It is improper for a Cost Accountant to state on his professional documents that he is an Income-tax Consultant, Chartered Accountant, Company Secretary, Cost Consultant or a Management Consultant.

The date of setting up the practice by a member or the date of establishment of the firm on the letterheads and other professional documents etc. should not be mentioned. However in the Website, the year of establishment can be given on the specific "pull" request( proposed).

A member must not use the designation such as 'Member of Parliament', 'Municipal Councilor' nor any other functionary in addition to that of Cost Accountant.

Members of the Institute in practice who are otherwise eligible may practice as advocates subject to the permission of the Bar Council but in such case, they should not use designation 'Cost Accountant' in respect of the matters involving the practice as an advocate. In respect of other matters they should use the designation 'Cost Accountant' but they should not use the designation 'Cost Accountant' and 'advocate' simultaneously.

It is not proper for a Cost Accountant to use the designation "Cost Accountant" except on professional documents, visiting cards, letter heads or sign boards and under the

circumstances clarified under para (g) of Clause (6).

The name, description and address of member (or firm) may appear in any directory or list of members of a particular body in which the names are listed alphabetically. For a specialized directory or a publication such as a "Who's Who" (including those compiled on purely local basis), a member should use his discretion in supplying information, bearing in mind the nature and purpose of the publications. In addition to his name, description and address and those of his firm, a member may give where appropriate, directorships held and reasonable personal details and may state his outside interests. He should not, however, give the names of any of his clients or details of the services offered by his firm.

Details in regard to publication of Name or Firm Name by Cost Accountants in the Telephone or other Directories published by Telephone Authorities or Private Bodies are published under Clause (6).

There should be no objection to the publication of photographs and brief particulars of members in magazines provided no payment is made for such publication and there is no advertisement of professional attainments.

A special exemption is made as regards publication of the name and address of a member or that of his firm, with the description Cost Accountant(s), in an advertisement appearing in the press in the following circumstances, provided that the advertisement is not displayed more prominently than is usual for such advertisements or the name of the member or that of his firm with the designation Cost Accountant(s) appears in type not bolder than the substance of the advertisement:

- (a) Advertisement for recruiting staff in the members' own office.
- (b) Advertisement inserted on behalf of clients requiring staff or wishing to acquire or dispose of business or property.
- (c) Advertisement for the sale of a business or property by a member acting in a professional capacity as trustee, liquidator or receiver.

When advertising for staff, it is desirable that members should avoid the expression such as "a well-known firm", since this would savour of advertisement. Similar considerations apply to advertisements for cost trainees. The advertisements should not contain any promotional element nor should there be any suggestion that the services offered by the Cost Accountant or his firm are superior to those offered by other accountants.

Notice in the press relating to the success in an examination of an individual candidate, should not contain any element of undesirable publicity either in relation to the cost trainee or an employee or the member or the firm with whom he was served.

It is usual for local papers to publish details of the examination success of local candidates. Some biographical information is often included. The rule aforementioned is not intended to discourage the printing of news of local interest but is intended to indicate the need for restraint. The candidate's name and address, school and local background, examination passed with details of any prize or place gained, the name of the principal, firm and town in which the principal practises may be published.

The reports and certificates issued by a Cost Accountant bring him to the notice of the public in a greater or lesser degree. It is therefore incumbent upon him to ensure that the extent and manner of publication of certificates are limited to what is necessary to enable the report or certificate to serve its proper purpose.

Members may appear on television and films and agree to broadcast in the Radio or give lectures at forums and may give their names and describe themselves as Cost Accountants. Special qualifications or specialised knowledge directly relevant to the subject matter of the programme may also be given. But no reference should be made, in the case of practising member to the name and address or services of his firm. What he may say or write must not be promotional of him or his firm but must be an objective professional view of the topic under consideration.

Publicity is permitted for appointments to positions of local or national importance or for the views of members on matters of similar importance. Mention of the membership of the Institute is desirable in such cases. What should be aimed at is to achieve suitable publicity for the Institute and its members generally. Members giving talks or lectures or attending conference may describe themselves as Cost Accountants only when they are acting in their capacity as Cost Accountants. Here again reference to the professional firm of the member should not be given.

A Cost Accountant in practice holding training courses, seminars etc. for his staff may also invite the staff of other Cost Accountants and clients to attend the same. However, undue prominence should not be given to the name of the Cost Accountant in any booklet or document issued in connection therewith.

Members writing articles or letters to the Press on subjects connected with the profession may give their names and use the description 'Cost Accountants'.

With regard to the size of sign board for his office that a member can put up, it is a matter in which the members should exercise their own discretion and good taste. Use of glow signs or lights on large-sized boards as is used by traders or shop-keepers would not be proper. A member can have a name board at the place of his residence with the designation of a Cost Accountant, provided it is a name plate or name board of an individual member and not of the firm.

**Clause (8):** accepts a position as auditor previously held by another Cost Accountant or a restricted state auditor without first communicating with him in writing;

It must be pointed out that professional courtesy alone is not the major reason for requiring a member to communicate with the existing cost accountant who is a member of the Institute or a certified auditor. The underlying objective is that the member may have an opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant. It is not intended, in any way, to prevent or obstruct the change. When making the enquiry from the retiring auditor, the one proposed to be appointed or already appointed should primarily find out whether there is any professional or other reasons why he should not accept the appointment.

It is important to remember that every client has an inherent right to choose his accountant; also that he may, subject to compliance with the statutory requirements in the case of limited companies, make a change whenever he chooses, whether or not the reasons which had impelled him to do so are good and valid. The change normally occurs where there has been a change of venue of business and a local accountant is preferred or where the partner who has been dealing with the client's affairs retires or dies; or where temperaments clash or the client has some good reasons to feel dissatisfied. In such cases, the retiring auditor should always accept the situation with good grace.

The existence of a dispute as regards the fees may be root cause of an auditor being changed. This would not constitute valid professional reasons on account of which an audit should not be accepted by the member to whom it is offered. However, in the case of an undisputed audit fees for carrying out the statutory audit under the Companies Act, 1956 or various other statutes having not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor have the dispute as regards the fees settled. The professional reasons for not accepting an audit would be:

- (i) Non-compliance of the provisions of Sections 224 and 225 of the Companies Act as mentioned in Clause (9);
- (ii) Undercutting of fees;
- (iii) Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act, 1956 or various other statutes; and
- (iv) Issuance of a qualified report.

In the first three cases, an auditor who accepts the audit would be guilty of professional misconduct.

What should be the correct procedure to adopt when a prospective client tells you that he wants to change his auditor and wants you to take up his work? There being two persons involved, the Company and the old auditor, the former should be asked whether the retiring auditor had been informed of the intention to change. If the answer is in the affirmative, then a communication should be addressed to the retiring auditor. If, however, it is learnt that the old auditor has not been informed, and the client is not willing to make the first move, it would be necessary to ask him the reason for the proposed change. If there is no valid reason for a change, it would be healthy practice not to accept the audit. If he decides to accept the audit he should address a communication to the retiring auditor.

As stated earlier, the object of the incoming auditor, in communicating with the retiring auditor is to ascertain from him whether there are any circumstances which warrant him not to accept the appointment. For example, whether the previous auditor has been changed on account of having qualified his report or he had expressed a wish not to continue on account of something inherently wrong with the administration of the business. The retiring auditor may even give out information regarding the condition of the accounts of the client or the reason that impelled him to qualify his report. In all these cases it would be essential for the incoming auditor to carefully consider the facts before deciding whether or not he should accept the audit, and should he do so, he must also take into account the information while discharging his duties and responsibilities.

Sometimes, the retiring auditor fails without justifiable cause except a feeling of hurt because of the change, to respond to the communication of the incoming auditor. So that it may not create a deadlock, the auditor appointed can act, after waiting for a reasonable time for a reply.

Mere posting of a letter "under certificate of posting" is not sufficient to establish communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. A Cost Accountant who relies solely upon a letter posted "under certificate of posting" therefore does so at his own risk.

Clause (9): accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with;

The Companies Act, 1956 provides for the requirements which an auditor appointed in respect of a Company should satisfy himself about, before he accepts the appointment. The relevant provisions are contained in Sections 224 and 225 of the said Act and the Council has notified that the provisions to be complied with under Clause (9) are those contained in Sections 224 and 225 of the Act. Section 224 contains several provisions in the matter of appointment of auditors in different circumstances and situations whereas Section 225 lays down the procedure which must be followed whenever a company desires to change its auditors. In order that the validity of the appointment of an auditor is not challenged or objected to by shareholders or the retiring auditors at a later date, it has been made obligatory on the incoming auditor to ascertain from the company that the appropriate procedure in the matter of appointment has been faithfully followed. The following guidelines have been issued by the Council for this purpose

1. Clause (9) of Part I of the First Schedule to Cost and Works Accountants Act, 1959, provides that a member in practice shall be deemed to be guilty of professional misconduct if he accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of Sections 224 and 225 of the Companies Act, 1956, in respect of such appointment have been duly complied with. Under this clause it is obligatory on the incoming auditor to ascertain from the company that the appropriate procedure in the matter of his appointment has been duly complied with so that no shareholder or retiring auditor may, at a later date, challenge the validity of such appointment.

2. A question arises as to what is the duty of the incoming auditor under this clause and what steps he should take in order to ascertain whether the company has complied with the provisions of Sections 224 and 225 of the Companies Act. These guidelines are issued by the Council in order to assist the members in practice to ensure that the provisions of clause (9) are duly complied with.

3. It may be clarified that though clause (9) refers to compliance with Sections 224 and 225 of the Companies Act, it is also necessary to ascertain that the provisions of Section 224A are duly complied with by the Company. This Section deals with special provisions relating to appointment of auditors by certain companies and they have necessarily to be considered by the incoming auditor before he accepts his assignment.

4. The steps to be taken by an auditor of a company who is appointed in the following

circumstances are indicated below:

- (i) When the auditor appointed is the first auditor of the company.
- (ii) When the auditor is appointed in place of an existing auditor who has resigned or has been removed or has ceased to hold office for any other reason.
- (iii) When the auditor or auditors appointed by the company were holding this office jointly with others and one or more of such joint auditors are not re-appointed.
- (iv) When one or more of the auditors appointed by the Company was/were not holding this office earlier.

5. The procedure to be followed by a company for appointment of an auditor is laid down in Section 224 of the Companies Act, 1956. The relevant provisions of the Section are summarized in the ensuing sub-paras.

5.1 The first auditor can be appointed by the Board of Directors' within one month of the date of registration of the Company. . The auditor so appointed will hold office up to the conclusion' of the first Annual General Meeting.

5.2 If the Board of Directors do not make such appointment, the company, can make the appointment of first auditor at any General Meeting.

,5.3 The first auditor appointed by the Board of Directors can be removed at any General Meeting and any other auditor can be appointed at such meeting if any member gives due notice of such resolution and such notice, is sent to all the members of the Company at least fourteen days before the date of the meeting. The notice of such a resolution will have to be dealt with as provided in Sections 225(2) and 225(3). In this connection, the procedure discussed in paras 7.4 to 7.7 below will have to be followed before any resolution for removal of the first auditor is passed at the General Meeting. For the removal of the first auditor of a Company approval of the Central Government as mentioned in para 5.14 below is not necessary.

5.4 Subsequent appointment of the auditor is to be made at each Annual General Meeting of the Company.

5.5 Before making appointment or reappointment of an auditor, the company has to obtain a written certificate from the auditor proposed to be appointed that such appointment or reappointment will be in accordance with the limits in respect of maximum number of audits which he can accept under the provisions of Section 224 (I-B).

5.6 The auditor so appointed will hold his office from the conclusion of the meeting at which he is appointed to the conclusion of the next Annual General Meeting.

5.7 The Company has to give intimation of the appointment to the auditor within seven days of his appointment.

5.8 If the retiring auditor has given a notice in writing of his unwillingness to be reappointed, the Company can appoint any other auditor.

5.9 The members of the company can pass a resolution at the Annual General Meeting to the effect that the retiring auditor shall not be reappointed. They can also pass a resolution at that meeting to appoint some-one else in place of the retiring auditor. Where a notice has

been given of an intended resolution to appoint some other auditor(s) in the place of a retiring auditor but such a resolution cannot be proceeded with in view of the fact that the person or persons proposed to be appointed has incurred an incapacity or disqualification or has died, the retiring auditor shall not be re-appointed. For this purpose the procedure laid down in Section 225 is to be complied with.

5.10 Except in the circumstances mentioned in 5.8 and 5.9 above, a retiring auditor shall be re-appointed if he is otherwise qualified for such reappointment.

5.11 If the company fails to appoint an auditor at the Annual General Meeting, such appointment will be made by the Central Government. The company has to give intimation to the Central Government within seven days about the fact that no such appointment has been made.

5.12 The Board of Directors, except for the situation covered by 5.13 below, can fill any casual vacancy in the office of the auditor. Until this appointment is made the remaining auditor, in case there are joint auditors, can function as auditor of the Company.

5.13 If the casual vacancy is caused by the resignation of an auditor, such vacancy can only be filled by the company in any General Meeting. The auditor appointed to fill any casual vacancy shall hold office until the conclusion of the next Annual General Meeting.

5.14 The company can remove the auditor before the expiry of his term of office by a resolution passed at any General Meeting and after obtaining previous approval of the Central Government.

6. Section 224A of the Companies Act lays down the procedure for appointment of auditor by a company in which 25% or more of the subscribed capital is held, whether singly or in combination, by the following institutions:

- (i) A public financial institution.
- (ii) Any financial or other institution established under a State Act in which the State Government holds 51 % or more of the subscribed share capital.
- (iii) Government Company, Central Government or any State Government.
- (iv) A nationalised Bank or an Insurance Company carrying on general insurance business.

The procedure to be followed by such a company, in brief, is as under:

6.1 The appointment or reappointment of auditor at each Annual General Meeting shall be made by a special resolution.

6.2 If the company fails to make such appointment or reappointment of auditor, the Central Government will have to make the appointment of auditor as provided in Section 224(3).

6.3 The provisions relating to appointment of first auditor, filling of casual vacancy, removal of auditor etc. which are contained in Section 224 will apply to the company specified in Section 224A.

7. Section 225 of the Companies Act lays down the procedure for appointment of auditor other than the retiring auditor and for removal of existing auditor. The procedure for giving

special notice as contained in Section 225(1) does not apply to the removal of the first auditor appointed by the Board of Directors, because separate provision as stated in para 5.3 above is made for this purpose. The procedure to be followed by the Company, is as under:

7.1 If a member of the company wants that the retiring auditor should not be reappointed or that an auditor other than the retiring- auditor should be appointed, he has to give a special notice to the company and specify the resolution which he proposes to move at the Annual General Meeting for this purpose.

7.2 Such special notice is required to be given if a member of the company wants to remove the auditor before the expiry of his term of office.

7.3 The special notice should be given at least 14 days before the date of the General Meeting when the question of appointment or reappointment of the auditor is to be considered.

7.4 On receipt of the special notice of such a resolution, the company has to send a copy of the same to the retiring auditor forthwith.

7.5 The company is also required to send the special notice to the members of the Company at least seven days before the Meeting as per the provisions of Section 190(2) read with Sections 172(2) and 53(1) to 53(4) of the Companies Act. According to these provisions, the notice should be sent by post or if that is not practicable then it should be given either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the Articles of Association of the Company.

7.6 After receipt of the above notice, the retiring auditor can submit his representation to the members of the Company. Such representation, on receipt by the company, is required to be sent to its members as required under Section 225(3) of the Companies Act.

7.7 The representation received from the retiring auditor will have to be considered at the General Meeting of the company before the resolution proposed by the concerned member is passed. The resolution proposed by the concerned member can be passed only in accordance with the provisions of Section 189 of the Companies Act.

8. Under Clause (9) of Part I of the First Schedule to the Cost and Works Accountants Act, 1959, the incoming auditor has to ascertain whether the company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224 and 233-B of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the company has, in fact, complied with the provisions of the above sections. If the company is not willing to allow the incoming auditor to verify the relevant records in order to enable him to ascertain as to whether the provisions of the above sections have been complied with, the incoming auditor should not accept the audit assignment.

9. It is suggested that the incoming auditor should verify the following records of the company

9.1 .If the appointment of the auditor is being made for the first time after incorporation of the Company, the auditor should verify as to whether the Board of Directors have passed the resolution for his appointment within one month of the date of registration of the Company.

9.2 If the Board of Directors have not appointed the first auditor but the appointment is being made by a general meeting of the company, the auditor should verify as to whether a proper notice convening the general meeting has been issued by the Company and whether the resolution has been validly passed at the general meeting of the company.

9.3 If the appointment is being made to fill a casual vacancy, the incoming auditor should verify as to whether the Board of Directors have powers to fill the casual vacancy and whether the Board of Directors have passed the resolution filling the casual vacancy.

9.4 If the vacancy has arisen due to resignation of the auditor, the incoming auditor should see as to whether a proper resolution filling the vacancy has been passed at the General Meeting of the Company.

9.5 If the vacancy has arisen as a result of removal of the auditor before the expiry of his term of office, the incoming auditor should see that proper resolution has been passed at the General Meeting of the company and that the previous approval of the Central Government has been obtained by the company.

**Clause (10):** engages in any business or occupation other than the profession of cost accountants unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle, a cost accountant from being a director of a company, unless he or any of his partners is interested in such company as accountant;

This is a provision introduced to restrain a member in practice from engaging himself in any business or occupation other than that of accountant except when permitted by the Council to be so engaged. The objective is to restrain members from carrying on any other business in conjunction with the profession of accountancy and combining such work with any business which is not in keeping with the dignity of the profession. Another reason for the introduction of such prohibition is that a cost accountant, if permitted to enter into all kinds of business, would be able to advertise for his other business and thereby secure an unfair advantage in his professional practice.

Clause-(11): accepts a position as cost accountant previously held by some other cost accountant in practice in such conditions as to constitute undercutting.

Clause-(12): allows a person not being a member of the Institute in practice or a member

not being his partner to sign on his behalf or on behalf of his firm any cost or pricing statements or any other statements relate thereto.

## **PART-II**

### **Professional Misconduct in Relation to Members of the Institute in Service**

The three clauses reproduced below included in this part of the Schedule define different types of conduct of a member who is not in practice but is an employee of a firm, company, or person which would make him guilty of professional misconduct:

- (1) If he pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by the member;
- (2) If he accepts or agrees to accept any part of fees, profits or gains from a lawyer, a Chartered Accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification;
- (3) If he discloses confidential information acquired in the course of his employment except as and when required by law or except as permitted by the employer.

A member in the foregoing circumstances would be guilty of misconduct regardless of the fact that he was in whole-time or part-time employment or that he was carrying on practice of accountancy along with his employment.

These are simple rules of ethics; the first two have already been considered in relation to a member in practice under clauses (2) & (3) of part I of the First Schedule. The third clause is an adaptation of the well-accepted principle of the law of agency.

## **PART - III**

### **Professional Misconduct in Relation to Members of the Institute Generally**

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct.

- (1) If he includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false.
- (2) If he, not being a fellow styles himself as a fellow.
- (3) If he does not supply the information called for, or does not comply with the requirements asked for, by the Council or any of its Committees.

The foregoing clauses are intended to empower the Council to enforce discipline over the members, and for obtaining information from members or requiring compliance with any directions issued by the Council.

## THE SECOND SCHEDULE

If a member is found guilty by the Council of any of the acts or omissions stated in either of the Parts of this Schedule, its finding with recommendations are to be referred to the High Court for decisions.

### PART I

Professional misconduct in relation to Cost Accountants in practice requiring action by a High Court:

A Cost Accountant in practice shall be deemed to be guilty of professional misconduct, if he-

Clause (1): discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client or otherwise than as required by any law for the time being in force;

An accountant, in public practice, has access to a great deal of information of his client which is of a highly confidential character. It is important for the work of an accountant and for maintaining the dignity and status of the profession that he should treat such information as having been provided to him, only to facilitate the performance of his professional duties for which his services have been engaged. To divulge such information would be a breach of professional confidence which may give rise to the most serious consequences, even to an action by the client for the loss suffered by him through such a breach. But for this confidence that the public has developed in the integrity of accountants, it would not be possible for persons in a similar trade or industry to appoint the same accountant. The accountant's duty not to disclose continues even after the completion of his assignment.

If disclosure is required as a part of performance of professional duty by a practicing member in relation to a client, the fact that such performance is required by the client would itself amount to the client consenting to such disclosure.

If disclosure is required in other cases, it would be necessary to ensure that the consent of the client is given by a person who is competent to accord such consent. Thus, in the case of a sole-proprietary concern, the consent may be given by the proprietor or his constituted attorney who is legally empowered to give such consent. In the case of a partnership firm, since in turn, every partner has the authority to bind the firm by his acts, the consent may be given by any partner.

An auditor is not required to provide the client or the other auditors of the same enterprise or its related enterprise such as a parent or a subsidiary, access to his audit working papers. The main auditors of an enterprise do not have right of access to the audit working papers of the branch auditors. In the case of a company, the statutory auditor has to consider the report of the branch auditor and has a right to seek clarifications and/or to visit the branch if he deems it necessary to do so for the performance of the duties as auditor. An auditor can rely on the work of another auditor, without having any right of access to the audit working papers of the other auditor. For this purpose, the term 'auditor' includes

'internal auditor'.

However, the auditor may, at his discretion, in cases considered appropriate by him, make portions of or extracts from his working papers available to the client.

It is not possible to set out all the circumstances under which disclosure of information may be required by law. If under any legal compulsion and if it is not legally permissible to claim privilege under the Evidence Act, 1972 (S.126), the disclosure made by a member of such information may not be considered as misconduct. However, such matters involve niceties of law and expert legal advice may be sought prior to such disclosure.

The only circumstances in which this duty of confidence may give rise to a difficulty is where the accountant has reason to believe that the client has been guilty of some unlawful act or default. This

Clause(2) : certifies or submits in his name or the name of his firm a report of an examination of cost accounting and related statements unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another cost accountant in practice;

Clause(3): permits his name or the name of his firm to be used in connection with an estimate of cost or earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast.

Clause (4): expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report ;

If the opinion of auditors are to command respect and the confidence of the public, it is essential that they must disclose every factor which is likely to affect their independence. Since financial interest in the business can be one of the important factors which may disturb independence, the clause provides that the existence of such an interest direct or indirect should be disclosed. This is intended to assure the public as regards the faith and confidences that could be reposed on the independent opinion expressed by the auditors.

The words "financial statements" used in this clause would cover both reports and certificates usually given after an examination of the accounts or the financial statement or any attest function under any statutory enactment or for purposes of income-tax assessments. This would not however, apply to cases where such statements are prepared by members in employment purely for the information of their respective employers in the normal course of their duties and not meant to be submitted to any outside authority.

Public conscience is expected to be ahead of the law. Members, therefore, are expected to interpret the requirement as regards independence much more strictly than what the law requires and should not place themselves in positions which would either compromise or jeopardize their independence.

Clause(5): fails to disclose in a cost or pricing statement a material fact known to him which is not disclosed in a cost or pricing statement but disclosure of which is necessary to make such statement not misleading;

Clause(6): fails to report a material misstatement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity;

Clause(7) : is grossly negligent in the conduct of his professional duties;

Clause (8): fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion;

Clause(9): fails to invite attention to any material departure from the generally accepted procedure of costing and pricing applicable to the circumstances;

Clause(10); fails to keep moneys of his clients in a separate banking account or to use such moneys purposes for which they are intended.

## PART – II

Professional misconduct in relation to members of the Institute generally requiring action by a High Court.

A member of the Institute whether in practice or not shall be deemed to be guilty of professional misconduct if he –

Clause (1): contravenes any of the provisions of this Act or the regulations made thereunder;

Clause (2): is guilty of such other acts or omissions as may be specified by the council in this behalf by notification in the Gazette of India.

## CHAPTER-6: Self Regulation Guidelines

**Self regulation guidelines:** Self Regulation Guidelines/directions in the context of use of designation etc. and manner of printing letter-heads and visiting cards, of the President, Vice-President of the Institute, Members of the Council, Chairmen of various Non-Standing Committees of the Institute; Chairmen, other office bearers and Members of the Regional Councils; Chairmen, other office bearers and Members of the Managing Committees of Chapters, which are given hereunder:-

1. The Institute will print the letter-heads for President and Vice- President of the Institute with their names, designation and address of the Institute with emblem. In these letter-

heads, the President's or Vice-President's personal addresses, including their professional and residential addresses shall not be printed.

2. The Regional Councils and their Chapters shall print the letter- heads for official use of the Chairmen of the respective Regional Councils/Chapters with their designation, address of the Regional Council/Chapter concerned and the Institute's emblem without mentioning their names in the letter-heads. As far as other office-bearers of Regional Councils and Chapters are concerned, they should use the common letter-head bearing the name and address of the Regional Council or the Chapter, as the case may be, and their designation may be typed below their signatures.
3. It is clarified that no member of the Council or any Regional Council or the Managing Committee of any Chapter shall print any letter-head in relation to the position he holds in various Committees or as a member of the Council/Regional Council/Managing Committee, at his cost.
4. The visiting cards will be printed for both the elected and nominated Central Council members. The visiting Cards be also printed for members of Regional Councils and Managing Committees of the Chapters. The visiting cards will be used only for official work of the Institute. The Head office of the Institute will print the visiting cards for President, Vice-President and Members of Central Council. The offices of Regional Councils and Chapters will print the visiting cards for respective Regional Councils and Chapters. The members themselves will not print the visiting cards.
5. In the visiting card, the designation viz., President/Vice-President/Member, Central Council/Chairman of the Regional Council/Chairman of the Chapter/Member of the Regional Council/Member of the Managing Committee of the .....Chapter of.....Regional Council will be used. There will not be any mention of any other designation like Chairman of particular Committee, etc.
6. The full term of the Council/Regional Council/Chapter will be mentioned for example 1998 to 2001. In case of the President/Vice-President/Chairman Regional Council and Chapter, the year of Presidentship/ Vice-Presidentship/Chairmanship will be mentioned, for example, 1999-2000. The President, Vice President, Chairmen of Regional Councils and Chapters will use their cards for the year in which they are elected. Cards with the designation/description viz., former/past President, membership of national/international bodies even at personal cost will not be permitted.
7. The address of the Institute in the case of Central Council member, that of the concerned Regional Council in the case of Regional Council member and that of the concerned Chapter in the case of Member of the Managing Committee of the Chapter will be printed. The Residential address of the members will not be printed. However, on the back of the visiting cards the residential telephone number may be printed. The professional office address also will not be printed. The Telephone No., Fax No. & E-mail address of the Institute in the case of Central Council Member, those of concerned Regional Council in the case of the Regional Council Member and those of the concerned Chapter in the case of Member of Managing Committee of the Chapter will be given.

8. The visiting Cards will be returned to the offices of the Institute as soon as the term of the President and Vice-President, the Membership of the Central Council/Chairmanship/Membership of the Regional Council/Managing Committee of the Chapter expires.
9. The number of cards permissible to be printed for the Central Council member, Chairman and Member of Regional Council and Chairman of the Chapter, Member of the Managing Committee of the Chapter will be 400 per year. For President and Vice-President, the number of cards to be printed will be left to be decided by them.
10. The visiting cards will be printed in the prescribed formats. The type of paper, printing, colour of ink of the visiting cards will be uniform and of the same type and manner.
11. In the visiting cards of Regional Councils and Chapters, the name of the respective Regional Council and Chapter will be printed in bold letters and the name of the Institute in normal letters.

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