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Professional Ethics

Introduction:

International Federation of Accountants (IFAC) has stated that every accountancy professional have to accept and observe ethical standards regulating their relationship and responsibility with public generally. The accountancy profession's public consists of clients, lenders, governments, employees, employers, investors and others who rely on their professional work.

Objective:

The 4 basic needs of objectives are QCPC i.e. Quality of Service, Confidence, Professionalism and Credibility.

Fundamental Principles:

The 7 fundamental principles are Integrity, Confidentiality, Objectivity, Professional competence, Professional behaviour, Due professional care and Technical Standards.

The Chartered Accountants Act, 1949:

This act has been amended in 1959 and 2006 and now it has 9 chapters covering all aspects for Chartered accountancy profession.

Certificate of Practice (COP):

As per sec. 24 of CA act, 1949 if any person who:

A) Not being CA

(i) Represent that he is CA; or

(ii) uses Designation Chartered Accountant.

B) Being CA but not having COP

(i) Represent that he is in Practice.

(ii) Practices as Chartered Accountant.

Penalty:

On 1ST conviction= fine upto Rs. 1,000.

On subsequent conviction= fine upto Rs. 5,000

or

Imprisonment upto 6 months

or

Both.

An ACA and FCA of institute who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants shall be deemed to be in practice for the limited purpose of the training of Article Assistant.

As per resolution passed by the Council in pursuant to sec. 2(2), when a CA individually or in partnership firm in consideration of remuneration renders "Management Consultancy and other Services" then he shall be deemed to be in practice. However, as per explanation, the activities of broking, underwriting and portfolio management are not covered in "Management Consultancy Services"

A CA having COP can't use designation other than Chartered Accountant but can use letters showing his degree like M. Com., ACS, AICWA etc.[sec. 7]

A CA in practice can have more than one COP after permission from ICAI but he can take up any work which a practicing Chartered Accountant can do, only in his capacity as a Chartered Accountant even if he is having other degree like company secretary (CS), cost accountant (CWA), lawyer etc.

Therefore, a Chartered Accountant whose name has been removed from the register of member (i.e. surrendered his COP) due to misconduct, he can't appear before the tax authorities or other bodies during such period of removal because he could have appeared in his capacity as a Chartered Accountant. Remind that there is no significance of having law degree during such period of removal for such work.

Disciplinary Procedure Flow Chart [sec. 21]

Complain against CA of alleges misconduct alongwith prescribed fees

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Disciplinary Directorate

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Director (Discipline) shall arrive at a prima facie opinion on the occurrence of alleged misconduct and decide whether he is guilty of Professional or other misconduct falling in

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First Schedule

then place the matter before

Board of Discipline

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If Board found guilty, it can
(i) Reprimand the member
(ii) Remove name of member from register upto 3 months
(iii) Impose fine upto Rs. 1 lakh

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Second Schedule or Both Schedule

then place the matter before

Disciplinary Committee

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If Committee found guilty, it can
(i) Reprimand the member
(ii) Remove name of member from register permanently or for any duration
(iii) Impose fine upto Rs. 5 lakh

However, Director (Discipline) or any member of ICAI aggrieved by the order of Board or Committee can prefer an appeal within 90 days from the date on which the order is communicated to him to the Appellate Authority.

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Appellate Authority

can revise the order and may:

(i) Confirm, modify or set aside the order
(ii) Impose, reduce, enhance or set aside penalty
(iii) Remit the case to the Board or Committee for reconsideration
(iv) Pass such order as the authority thinks fit.

Schedule to the Chartered Accountants Act, 1949:

A CA 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.

A) Professional Misconduct: First Schedule(PART- I, II & III) and Second Schedule (PART- II & II)

B) Other Misconduct: First Schedule (PART-IV) and Second Schedule (PART-III)

A) Professional Misconduct:

For CA in Practice (22 clauses)

PART-I of First Schedule (12 clauses):

1) Allow Name

2) Share profits

3) Accept profits

4) Enters into partnership

5) Secures profession

6) Solicits clients

7) Advertise professional attainments OR use designation

8) Communicate with previous auditor

9) Comply sec. 225

10) Charges fees

11) Engages in any business/occupation

12) Allow to sign.

PART-I of Second Schedule (10 clauses):

1) Disclosure of client information

2) Reports without examination

3) Accuracy of forecast

4) Opinion even substantial interest

5) Disclosure of material facts

6) Report material misstatement

7) Due Diligence or Gross Negligent

8) Obtain sufficient information

9) Departure from SA and Guidance Note

10) Use of Client’s money

For CA in Service (2 clauses)

PART-II of First Schedule (2 clauses):

1) Pays share in Emoluments

2) Accept Commission or Gratification

For CA Generally (7 clauses)

PART-III of First Schedule (3 clauses):

1) Acts as FCA

2) Not supply or comply

3) Gives false information

PART-II of Second Schedule (4 clauses):

1) Contravenes provisions

2) Confidential information

3) Submit false information

4) Defalcates or Embezzles professional money

B) Other Misconduct:

A member of ICAI, whether in practice or not, shall be deemed to be guilty of other misconduct, if does not comply with the following:

PART-IV of First Schedule:

(i) Held guilty and punishable with imprisonment NOT exceeding 6 months or

(ii) in opinion of council, disrepute to the profession.

PART-III of Second Schedule:

Held guilty and punishable with imprisonment > 6 months.

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