CODE OF ETHICS FOR CHARTERED ACCOUNTANTS

INTRODUCTION

Financial statements of an enterprise depict the wholesome financial situation of the enterprise for a particular period / at a particular date. The information in these statements are of vital importance for a large section of the society, which deal with that enterprise. It may be suppliers of material, customers, investors, Banks, Financial Institutions, Insurers, Government, Tax Authorities, employees, collaborators and even their competitors. Keeping in view the importance of these statements and the large section of the society who use these statements for taking many vital decisions, it is necessary that these statements are attested by some person who is expert in this field so that the objectivity, integrity, reliability and credibility of the information is assured to a large extent. This function of attestation is done by professional accountants, who are Chartered Accountants in our country. It has been however, observed that there have been a number of cases in banks and financial institutions wherein due to the erroneous/ambiguous advice tendered by the respective Chartered Accountants, borrowal accounts have had to face quick mortality resulting in loss for the bank. Many a time this has also resulted in vigilance cases being initiated with the allegations of connivance/malafide/gross negligence being attributed to the concerned Bank officials.

1.1 For the success of the profession of accountancy a self-imposed Code of Ethics is essential to command the respect and confidence of the general public. Chartered Accountants in the service of the affairs of others have responsibilities and obligations to those who rely on their work.

1.2 A client, before engaging the services of a professional requires to be assured, (i) that he has the required competence and (ii) that he is a person of character and integrity. As regards the first, evidence is available to the client in the form of a certificate that the Chartered Accountant has undergone the training and passed the appropriate examination in accountancy and as regards the second, he would have an assurance only if the professional body to which he belongs has adopted a code of professional ethics for its members.

1.3 The International Federation of Accountants (IFAC), in its guidelines on Professional Ethics for the Accountancy Profession, has stated :-

"Persons who pursue a vocation in which they offer their knowledge and skills in the service of the affairs of others have responsibilities and obligations to those who rely on their work. An essential pre-requisite for any group of such persons is the acceptance and observance of professional ethical standards regulating their relationship with clients, employers, employees, fellow members of the group and the public generally."

IFAC in its Code of Ethics for Professional Accountants has also stated as under:-

The Public Interest

A distinguishing mark of a profession is acceptance of its responsibility to the public. The accountancy profession's public consists of clients, credit grantors, governments, employers, employees, investors, the business and financial community and others who rely on the objectivity and integrity of professional accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on the accountancy profession. The public interest is defined as the collective well-being of the community of people and institutions the professional accountant serves.

A professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. The standards of the accountancy profession are heavily determined by the public interest, for example :-

- Independent auditors help to maintain the integrity and efficiency of the financial statements presented to financial institutions in partial support for loans and to stockholders for obtaining capital;

- Financial executives serve in various financial management capacities in organizations and contribute to the efficient and effective use of the organization's resources;

- Internal auditors provide assurance about a sound internal control system which enhances the reliability of the external financial information of the employer;

- Tax experts help to establish confidence and efficiency in, and the fair application of, the tax system; and

- Management consultants have a responsibility towards the public interest in advocating sound management decision making.

Professional accountants have an important role in society. Investors, creditors, employers and other sections of the business community, as well as the government and the public at large rely on professional accountants for sound financial accounting and reporting, effective financial management and competent advice on a variety of business and taxation matters. The attitude and behaviour of professional accountants in providing such services have an impact on the economic well-being of their community and country.

Professional accountants can remain in this advantageous position only by continuing to provide the public with these unique services at a level which demonstrates that the public confidence is firmly founded. It is in the best interest of the worldwide accountancy profession to make known to users of the services provided by professional accountants that they are executed at the highest level of performance and in accordance with ethical requirements that strive to ensure such performance. In formulating their national code of ethics, member bodies should therefore consider the public service and user expectations of the ethical standards of professional accountants and take their views into account. By doing so, any existing "expectation gap" between the standards expected and those prescribed can be addressed or explained.

Objectives

The Code recognizes 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 set out above. These objectives require four basic needs to be met :-

* Credibility

In the whole of society there is a need for credibility in information and information systems.

* Professionalism

There is a need for individuals who can be clearly identified by clients, employers and other interested parties as professional persons in the accountancy field.

* Quality of Services

There is a need for assurance that all services obtained from a professional accountant are carried out to the highest standards of performance.

* Confidence

Users of the services of professional accountants should be able to feel confident that there exists a framework of professional ethics which governs the provision of those services.

Fundamental Principles

In order to achieve the objectives of the Accountancy profession, professional accountants have to observe a number of prerequisites or fundamental principles. The fundamental principles are :-

* Integrity

A professional accountant should be straightforward and honest in performing professional services.

* Objectivity

A professional accountant should be fair and should not allow prejudice or bias, conflict of interest or influence of others to override objectivity.

* Professional Competence and Due Care

A professional accountant should perform professional services with due care, competence and diligence and has a continuing duty to maintain professional knowledge and skill at a level required to ensure that a client or employer receives the advantage of competent professional service based on up-to-date developments in practice, legislation and techniques.

* Confidentiality

A professional accountant should respect the confidentiality of information acquired during the course of performing professional services 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.

* Professional Behaviour

A professional accountant should act in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession. The obligation to refrain from any conduct which might bring discredit to the profession requires IFAC member bodies to consider, when developing ethical requirements, the responsibilities of a professional accountant to clients, third parties, other members of the accountancy profession, staff, employers and the general public.

* Technical Standards

A professional accountant should carry out professional services in accordance with the relevant technical and professional standards. Professional accountants have a duty to carry out with care and skill, the instructions of the client or employer in-so-far as they are compatible with the requirements of integrity, objectivity and in the case of professional accountants in public practice, independence. In addition they should confirm with the technical and professional standards promulgated by :-

- IFAC (e.g. International Standards on Auditing);
- International Accounting Standards Board;
- The Member's professional body or other regulatory body; and
- Relevant legislation.

1.4 Independence

When in public practice, an accountant should both be, and appear to be, free of any interest which might be regarded, whatever its actual effect, as being incompatible with integrity and objectivity.

1.5 The over-riding motto has been 'pride of service in preference to personal gain'. A code of professional conduct may have the force of law, as is the case in this country in some matters, as well as the result of discipline and conventions voluntarily established by the members, any breach whereof would result in the person being disentitled to continue as a member of the professional body. In any event, it has a great deal of practical value in so far as it proclaims to the public that the members of the profession will discharge their duties and responsibilities, having regard to the public interest. This, in turn, will give an assurance to the public that in the event of a member straying away from the path of duty, he would be suitably dealt with by the professional body.

"Other Misconduct"

In this background, the Chartered Accountants Act, 1949 (as amended up to date), was formulated to regulate the profession of Chartered Accountancy. This Act is being administered through the Institute of Chartered Accountants of India; which functions and discharges its duty through a 'Council'. To ensure discipline in the profession, The Chartered Accountants Act along with its schedules sets out different forms of behaviour, which constitute misconduct under the law. The definition of misconduct in the Act is only an inclusive one and is not exhaustive. Over and above this, the council of the Institution (ICAI) has also been given powers under the law to enquire into the conduct of any member of the Institute other than those specified in the Act, which may in the view of the COUNCIL be not desirable and/or expected of a Chartered Accountant. This kind of misconduct is known as 'other misconduct'. The 'other misconduct' may not necessarily arise out of professional work. With a view to bring harmony in presentation of the financial statements and an identical treatment in a particular situation, the ICAI has brought out various Statements, Auditing and Assurance Standards, Accounting Standards and Guidance Notes, which are mandatory for a practicing Chartered Accountant to be adhered to while discharging his professional duty of attestation of financial statements. These sets of documents necessitate that financial statements are depicted in a definite manner, and give the required information in the desired manner, which are professionally verified by applying scientific audit techniques to ensure material correctness to a large extent. The objectivity and integrity of the financial statements attested by a Chartered Accountant following these sets of documents, are of a very high degree, and which enhance the credibility and reliability of these statements to the user. A Chartered Accountant who does not follow these sets of documents in discharging his professional duty of attestation, is guilty of professional misconduct, and thereby liable for disciplinary action and punishment under the Act, which may be;

(i) Reprimanding the member or
(ii) Removing his name from the Register of members for such period not exceeding five years, or
(iii) Forwarding the case to the High Court with its recommendations where the council opines for removal of name for a period exceeding five years, or
(iv) If the misconduct is of a nature, which as per the Chartered Accountants Act requires action by the High Court, reference to the High Court with recommendations of the council.

The procedure of enquiry in respect of disciplinary action against a Chartered Accountant is not only lengthy but rigorous also. Barring a few exceptions, the Chartered Accountant, who has to face action would feel so humiliated that his enthusiasm and working capacity comes to the lowest level. Removal of name as a punishment further nails him with a severe economic blow.

Still there are instances when it is noticed that the report of Chartered Accountants either misses vital information which must be there, or gives incomplete information or gives an information in a misleading manner or at times gives a completely wrong information. It is pertinently noticed by bank officials in dispensation of credit and monitoring of some financed cases, that information in the financial statements does not help in taking a right and judicious decision. Though it is difficult to substantiate by tangible evidences, but circumstantial evidences in certain cases, do point out that the intention of all concerned has not been bonafide, rather it is malafide and is done with some ulterior motive.

Some of the common points where reports of Chartered Accountants have not been of desirable level are :-

- Valuation of stocks including work in progress.
- Transactions with related parties.
- Valuation of investments
- Valuation and status of other assets.
- Status of Sundry Debtors
- Status of Creditors
- Status of loans
- Provision in respect of all the known liabilities.

All these issues have a considerable impact on profit and the real financial health of an enterprise, failure of which would prevent taking of a well informed, correct decision by banks and financial institutions.

Here it may not be out of place to mention that banks and financial institutions are heavily relying on Chartered Accountants in discharging their work in judicious manner. For this the banks get various type of reports and certificates which the banks have devised after much deliberations. If these certificates give the required information in the right perspective, the loan assets of the banks to a large extent may be saved from becoming bad.

These certificates and reports in general are :-

- Annual Audit Report on the Accounts of Borrower

  CAs have to be transparent and absolutely honest while certifying the following items:

  (a) Valuation of inventory – stock, work in progress, finished goods, etc. (It may be observed that variations in the sale of the stocks declared by the companies in their stock statement for the year ending position in March and the value of stocks declared in the annual accounts subsequently are on account of this.)

  (b) Dealing with group accounts – Normally this is where diversion of funds take place. CAs also should comment whether transactions are at par with commercial transactions done with other parties. CAs also should comment whether investments in group companies are safe and sound.

(c) It should also be commented whether any bad debt is included under Sundry Debtors, whether loans and advances to group companies are camouflaged under sundry debtors to avail book debt finance, whether any fictitious debt is created to avail finance from banks (like fertilizer subsidy financed against by banks).

(d) Whether any fictitious sales are booked to inflate sales/profit.

- Stock Audit of Borrowal accounts

CAs should bear in mind that based on their certificate, the banks value the security. Any false certificate will affect the security of the bank and jeopardize their funds. The valuation of stocks should be judged correctly. The valuation of especially work-in-progress should be studied in depth. The sundry creditors position should be analyzed to see whether paid for stocks is adequate. The sundry debtors position should be analyzed to ensure that:

➢ The debts are good and realizable;
➢ No bad debt is included;
➢ In case of debts relating to group company, they are reflecting genuine commercial transaction;
➢ No fictitious debt is created.

Regarding specific certificates/tasks, sometimes, in order to comply with the terms of sanction in a hurry, banks get these certificates from any CA. The purpose of the banks will be served better, if they insist that the 'statutory auditors' to the Company should give these certificates.

- Specific certificate with respect to infusion of capital or family loans.
- Monitoring of accounts with a specific objective.
- Certification of utilization of funds for the desired end use.

However the plight is that these certificates and reports do not give the required information in the required manner and therefore fail to serve the desired purpose. Besides the large number of disclaimers made lessen the authenticity of the Report made by the Chartered Accountant.

At times CAs also function as directors of companies on their Boards. What is to be Code of Conduct for them is well defined in Naresh Chandra Committee Report and should be implemented.

If these certificates and reports are objectively prepared keeping in view the statements, standards and guidance notes issued by ICAI, it is believed that the required information in the required manner will be available to a large extent.

In short, the essence of the whole issue is that the rigorous disciplinary action of ICAI also seems to be ineffective to some extent in deterring some of the Chartered Accountants from resorting to undesirable practices. The reason for this, seems to be that many a time undesirable practices are not caught and only sparingly CA(s) get punished for their intentional misdeeds; which again is a time taking process.

It is suggested that the following be mandated as a Policy :-

(a) That banks and financial institutions have independent assessment of the work of Chartered Accountants and a list of Chartered Accountants, who work objectively, may be evolved and simultaneously the list of Chartered Accountants, whose work is undesirable, can also be evolved. Such lists may be shared by nationalized banks amongst themselves. Further, if it is found that the Chartered Accountant has not adequately reported non-adherence of the laid down Statements Standards and / or Guidance Notes in preparing his reports, the concerned banks should report the matter to The Institute of Chartered Accountants of India, who should take the required action against the concerned Chartered Accountant within a specific time schedule.

(b) It could be made mandatory that companies should change their 'statutory auditors' every 3 years. Periodic changes will be healthy.

(c) “Institute of Chartered Accountants of India” is the body to which banks normally complain. But this body, at the worst, only bars the concerned CA from practice. It could be seen whether deliberate mispresentation given by CAs can be treated as a criminal or an economic offense?

(d) Can the Institute of Chartered Accountants of India publish a list of names of tainted/banned CAs from time to time (like ECGC / DICGC list) so that banks can take cognizance of the same?

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