

Matter for 'Know Your Ethics' – February , 2014 issue of the CA Journal

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Q. Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he does not supply the information called for, or does not comply with the requirements asked for, by the Institute?

A. Yes, a member of the Institute shall be deemed to be guilty of professional misconduct if he does not supply the information called for, or does not comply with the requirements asked for by the Institute. (As per clause (2) of part-III of the First Schedule to the Chartered Accountants Act, 1949)

Q. Can a Chartered Accountant in practice disclose information acquired in the course of his professional engagement?

A. No, as per Clause (1) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client or otherwise than as required by any law for the time being in force.

Q. Whether an auditor is required to provide to the client or to main auditor of the Head Office of the same enterprise access to his audit working papers?

A. No, working papers are the property of an auditor. An auditor is not required to provide the client 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, except in case it is required by the Regulatory norms.

Q. Whether Joint Auditors can demand the working papers of one another?

A. No, the working papers are the property of an auditor. Therefore, no Joint Auditor can demand the working papers of the other auditor.

Q. Whether a joint auditor will be responsible for the work done by other joint auditor?

A. Council direction under Clause (2) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 prescribes that in respect of audit work divided among the joint auditors, each joint auditor is responsible only for the work allocated to him, whether or not he has prepared a separate report on the work performed by him. However, on the other hand, all the joint auditors are jointly and severally responsible for the work which is not *inter-se* divided among the auditors.

Q. Whether the member in practice can permit his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast?

A. No, under clause (3) of part-I of the Second Schedule of the Chartered Accountants Act, 1949, a member in practice cannot permit his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transaction in a manner which may lead to the belief that he vouches for the accuracy of the forecast. However, the Council has decided that a Chartered Accountant can participate in the preparation of profit or financial forecasts and can review them, provided he indicates clearly in his report the sources of information, the basis of forecasts and also the major assumptions made in arriving at the forecasts and so long as he does not vouch for the accuracy of the forecasts.

Q. Can a member in practice express his opinion on financial statements of any business or enterprises in which he, his relative, his firm or a partner in his firm has a substantial interest?

A. No, as per Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he expresses his opinion on financial statements of any business or any enterprise in which he, his relative, his firm or a partner in his firm has substantial interest.

However, in case of a company, under Section 226(3)(e), he cannot do so even if he holds a single share.

The meaning of the word 'substantial interest' shall be the same as are contained in the resolution passed by the Council in pursuance to Regulation 190A of the CA Regulations, 1988.

Q. Whether the Chartered Accountant who is appointed as a liquidator of a company can do the audit of that company?

A. No, Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and Regulations framed there under may be referred.

Q. Whether the Chartered Accountant will be guilty of professional misconduct, if he:

(i) accept the auditorship of a college, if he is working as a part-time lecturer in the college.

(ii) accept the auditorship of a trust where his partner is either an employee or a trustee of the trust.

A. Yes, the Chartered Accountant will be guilty of professional misconduct in both the above referred circumstances.

Q. Can a member audit an enterprise/concern where he is a director?

A. No, in cases where the member is a director of a company the financial statements of which are to be audited and/or opinion is to be expressed, he should

not undertake such job and/or express opinion on the financial statements of that company.

Q. Whether a member can audit an enterprise/concern where a partner or relative of the member is a director in the company who has a substantial interest?

A. No, for the reason as not to compromise with the independence of mind, the member may desist from undertaking the audit of financial statements and/or expression of opinion thereon.

Q. Can an auditor write the books of accounts of the auditee?

A. No, Council directions under Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 prescribes that an auditor is not permitted to write the books of accounts of his auditee clients.

Q. Whether a member who is carrying out statutory audit and also rendering management consultancy services to his auditee clients can receive fees for such other services, which are in excess of the audit fees.

A. Yes. However, in exercise of the powers conferred by clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Guidelines which specify that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crore or more in a year and accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/Company(ies) on a remuneration which in aggregate exceeds the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of the conditions/restriction(s), the same shall apply instead of conditions/restrictions specified under the Guidelines.

Explanation :

1. The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s), payable to the statutory auditors and their associate concern(s) put together;

2. For the above purpose;

(I) The term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to

Section 2(2)(iv) of the Act, but shall not include :-

(i) audit under any other statute;

(ii) certification work required to be done by the statutory auditors; and

(iii) any representation before an authority.

(II) The term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory

auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;
(III) The terms "relative" and "substantial interest" shall have the same meaning as are assigned under Appendix (10) to the CA Regulations, 1988;

3. In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory auditor(s) together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

Q. Whether a statutory auditor can accept the system audit of same entity?

A. Yes, the statutory auditor can accept the assignment of a system audit of the same entity, provided it did not involve any scrutiny/review of financial data and information.
