

**Matter for 'Know Your Ethics' – November, 2015 issue of the CA Journal**

**Q. Whether a Chartered Accountant in practice can accept audit in case the audit fee of the previous auditor remains unpaid.**

**A.** No, in case the undisputed audit fees for carrying out the statutory audit under the Companies Act, 1956 or various other statutes have 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 to have the dispute as regards the fees settled. The Council has taken the view that the provisions of audit fee made in accounts signed by both the auditor and the auditee shall be considered as 'undisputed' audit fees. In this connection, attention of members is invited to the Council General Guidelines, 2008 dated 08.08.2008

**Q. Whether posting of a letter under "Certificate of Posting" is sufficient to establish communication with retiring auditor?**

**A.** No, mere posting of a letter "Under Certificate of Posting" is not sufficient to establish effective communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. Communication by a letter sent "Registered Acknowledgement due" or by hand against a written acknowledgement would in the normal course provide such evidence.

**Q. Whether communication with previous auditor is necessary in case of banks other than nationalized banks also?**

**A.** Yes, Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 is equally applicable in case of nationalized and other Banks and also in case of Government agencies.

**Q. Whether a Member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council any particulars knowing to be false?**

**A.** Yes, as per Clause (3) of Part III of the First Schedule to the Chartered Accountants Act, 1949 a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false.

**Q. Whether a Chartered Accountant will be deemed to be guilty of professional misconduct if he accepts his appointment as an auditor**

**immediately after intimating his appointment over the phone to the previous auditor?**

- A.** Yes, the member would be held guilty of professional misconduct for the following reasons:
- (a) That he had failed to communicate with the retiring auditor in writing; and
  - (b) That he did not wait for a reasonable length of time for a reply to be received from him.

**Q. Whether communication by the Incoming auditor is mandatory with the previous auditor in respect of various audit assignments, like the concurrent audit, revenue audit, tax audit and special audits etc.?**

- A.** Yes, the requirement for communicating with the previous auditor would apply to all types of audits viz., statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit. The Council has laid down detailed guidelines in this regard and the same are appearing in the Code of Ethics, 2009 edition.

**Q. Whether a member in practice can be a director of a company?**

- A.** Yes. a member in practice is permitted generally to be a Director Simplicitor in a company provided he is not a Managing Director or Wholetime Director and is required only in the Board Meetings of the company and not paid any remuneration except for attending such meetings.

**Q. Can a Chartered Accountant in Service 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?**

- A.** No, Clause (2) of Part II of First Schedule to the Chartered Accountants Act, 1949, prohibits a member in service from accepting or agreeing 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.

**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 practicing Chartered Accountant accept a position as auditor previously held by some other Chartered Accountant in such conditions as to constitute undercutting?**

**A.** Yes, a Chartered Accountant in practice can accept a position as auditor previously held by some other Chartered Accountant in such conditions as to constitute undercutting.

**Q. Whether a Chartered Accountant in practice can engage in any business or occupation other than the profession of Chartered Accountancy?**

**A.** No, in terms of Clause (11) of Part I of First Schedule to the Chartered Accountants Act, 1949 in general a Chartered Accountant in practice is not permitted to engage himself in any business or occupation other than the profession of Chartered Accountants.

However, there are following exceptions to it:-

(i) A Chartered Accountant can be a Director of a Company (not being a Managing Director or Whole-Time Director), unless he or any of his partners is interested in such company as an auditor. [Proviso to Clause (11)]

(ii) A Chartered Accountant in practice may engage in any business or occupation with the permission granted in accordance with a Resolution of the Council. Appendix-9 of the Chartered Accountants Regulations, 1988 contains the above resolutions under two heads (A) permission granted generally and (B) permission to be granted specifically.

**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 to 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.

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