

The background of the entire page is an abstract, monochromatic geometric pattern. It consists of numerous overlapping triangles and polygons, some of which are filled with fine, parallel lines. The overall effect is a complex, three-dimensional-looking structure that creates a sense of depth and movement. The colors are shades of gray and white.

**NEWSLETTER**

**THRISSUR BRANCH OF SIRC OF ICAI**

September 2019

## From the Chairperson

**W**arm Greetings Dear Members,

In the month of September, all of us celebrated ONAM our Annual Harvest Festival starting from 10th September and all our minds were filled with joy and expectations about the coming year. We as Chartered Accountants were having a very hectic time; being Tax Audit Season and most of us could have really stretched to the maximum due to the continuous bank holidays and State Government holidays during the second week of September.

In commemoration of Dr. S. Radhakrishnan's birth anniversary, our branch celebrated Teacher's Day in a befitting manner. We honoured our CA Foundation, Intermediate and Final teachers as well as Senior members of our branch as a mark of our respect and love. We even handed over PONNADA honouring the noble deed of teaching.

On 5th September our branch celebrated Onam at SWASRAYA Special School, Kuttur and along with the inmates of the school we celebrated Onam with variety entertainments and Onasadya. The



members were really rejuvenated with the dance performances of the children of SWASRAYA and the songs sung by them. I thank our staff member Ms. Lisha and our member CA Varghese Paul who came forward to entertain these gifted children with songs and other variety programmes.

The Managing Committee met twice during the month to decide upon various issues like Onam Bonus to staff and new staff appointment at the old branch premises etc.

Once more ONAM came reminding us of the GOLDEN RULE set by Emperor Mahabali. Hope the good fortune, feeling of oneness and abounding happiness be with each one of you and your family for the next one year.

Thanking You..

# KNOW YOUR ETHICS

Taken from ICAI Journal as Contributed by the Ethical Standards Board of ICAI



## Q. What is the professional or other misconduct?

A. Section 22 of the Act defines professional or other misconduct as follows:- For the purposes of this Act, the expression "professional or other misconduct" shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

What constitutes 'misconduct under any other circumstances' has to be determined on case to case basis keeping in view the facts of the circumstances of each case. Fraud, intention to deceive and committing an act which affects the public or society at large could be in the ambit of such misconduct. Following are few examples of 'misconduct under any other circumstances' by a member:-

1. Conviction by a competent Court for an offence involving moral turpitude punishable with imprisonment or for an offence not of a technical nature committed by a member in his professional capacity.

2. Retention of books and documents of the client and failure to return these to the client on request without a reasonable cause.

3. Material misrepresentation e.g. misrepresenting to a firm, while seeking employment as an accountant, that he has worked for three years as a senior assistant with another firm.

4. Publishing an advertisement in a newspaper with malafide intention to malign any person.

5. Using objectionable, derogatory and abusive language or/and making irrelevant, incoherent irresponsible and insane statements in his correspondence with a person.

**Q. What is the distinction between the two schedules?**

A. The two schedules are distinguished on the basis of gravity of misconduct and quantum of punishment for the misconduct, the second schedule pertaining to comparably graver misconduct and higher punishment.

**Q. What will be the procedure where a member is guilty of charges both under the First Schedule and Second Schedule to the Act?**

A. The procedure to be followed when a member is accused of misconduct under both schedules is the same which is followed for misconduct under the second schedule

**Q. Can a member in practice render Management Consultancy and other services?**

A. Yes, however, the areas covered under the Management Consultancy and other services have been summarised by the Council. The "Management Consultancy and other services" may be referred at pages 103 -105 of the Code of Ethics.

**Q. Whether a member in practice is permitted to undertake the management of NRI funds?**

A. No, the member is not permitted to undertake such assignment because the same is not covered under "Management Consultancy and Other Services" permitted to be rendered by the practicing members of the Institute.

**Q. Can a Chartered Accountant provide 'Portfolio Management Services' (PMS) as part of CA practice?**

A. No, the Explanation to Clause (xix) of the definition of "Management Consultancy and other Services" expressly bars the activities of broking, underwriting and Portfolio Management.

**Q. Whether a Chartered Accountant in practice is required to obtain any trade license for practicing?**

A. No, a Chartered Accountant in practice is not required to obtain any trade licence for practicing as a professional. The certificate of practice issued by the Institute is the only requirement to practice as a Chartered Accountant.



**Q. Can a Chartered Accountant in practice work as a 'Collection Agent/Recovery Agent'?**

A. No, a Chartered Accountant in practice cannot work as a Collection Agent. However, he can act as a Recovery Consultant as provided in clause (xxv) of "Management Consultancy and other Services".

**Q. Can a member in practice have a branch office/ additional office/ temporary office?**

A. Yes, a member can have a branch office. In terms of Section 27 of the Act, if a Chartered Accountant in practice or a firm of Chartered 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. However, exemption has been given to members practicing in hill areas subject to certain conditions. The conditions are: 1. Such members/firm be allowed to open temporary offices in a city in the plains for a limited period not exceeding three months in a year. 2. The regular office need not be closed during this period and all correspondence can continue to be made at the regular office. 3. The name board of the firm in the temporary office should not be displayed at times other than the period such office is permitted to function as above. 4. The temporary office should not

be mentioned in the letterheads, visiting cards or any other documents as a place of business of the member/firm. 5. Before commencement of every winter it shall be obligatory on the member/firm to inform the Institute that he/it is opening the temporary office from a particular date and after the office is closed at the expiry of the period of permission, an intimation to that effect should also be sent to the office of the Institute by registered post. The above conditions apply to any additional office situated at a place beyond 50 km from the municipal limits in which any office is situated. It is to be noted that the requirement of Section 27 in regard to a member being in charge of an office of a Chartered Accountant in practice or a firm of such Chartered Accountants shall be satisfied only if the member is actively associated with such office. Such association shall be deemed to exist if the member resides in the place where the office is situated for a period of not less than 182 days in a year or if he attends the said office for a period of not less than 182 days in a year or in such other circumstances as, in the opinion of the Executive Committee, establish such active association. It is necessary to mention that the Chartered Accountant in charge of the branch of another firm should be associated with him or with the firm either as a partner or as a paid assistant. If he is a paid assistant, he must be in whole time employment with him. However, a member can be in charge of two offices if they are located in one and the same accommodation.

**Q. Whether the words “Chartered Accountants” and name of city after the name of the members of the Institute be mentioned in the articles contributed by such members and published in the Institute's Journal?**

A. Yes, under Clause (6) of Part I of the First Schedule to the CA Act there is no restriction in the Code of Ethics for mentioning the words “Chartered Accountants” and also the name of city in an article contributed by a member in the Institute's Journal as well as in newspapers and other periodicals.

**Q. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?**

A. No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountant. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the CA Act, of Code of Ethics, 2009).

**Q. Can a Chartered Accountant in practice seek professional work from his professional colleagues?**

A. Yes, in terms of proviso (i) of Clause (6) of Part-I of the First Schedule to the CA Act, a member is permitted to apply or request for or to invite or to secure professional work from another Chartered Accountant in practice. The issue of advertisement or a circular by a Chartered Accountant, seeking work from professional colleagues on any basis whatsoever is in violation of Clause (6) of Part I of the First Schedule to the CA Act. However, classified advertisement in the

Journal/Newsletter of the Institute is permissible in this regard. 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 or E-mail address.

**Q. Whether sponsorship or prizes can be instituted in the name of Chartered Accountants or a firm of Chartered Accountants?**

A. Yes, an individual Chartered Accountant or a firm of Chartered Accountants can institute or sponsor prizes, provided that the designation “Chartered Accountant”, is not appended to the prize and the Clause (6) of the First Schedule regarding advertisement and publicity is complied with.

**Q. A Chartered Accountants firm issued circulars to the non- clients that a Chartered Accountant who was the former partner in-charge of Taxation of one of the largest accounting firms of the world, had joined them as partner. Can they do it? (Case Study)**

A. No, Clause (6) of Part I of the First Schedule to the CA Act prohibits solicitation of clients or performing work either directly or indirectly by circular, advertisement, personal communication or interview or by any “other means”. The issuance of circular to persons who are not clients but may

likely requires services of a chartered accountant would tantamount to advertisement since it is solicitation of professional work by making roving enquiries. As per Clause (7) of Part I of the First Schedule to the CA Act, the usage of the words "one of the largest accounting firms of the World" and the specification of specialization in "taxation" would also amount to advertisement and, thus, constitute professional misconduct.

**Q. In a representation submitted to a company under Section 225(3) of the Companies Act, 1956, the auditors of the company included the contribution made by the firm in strengthening the control procedures of the company during their association with the company. Is it misconduct (Case Study)?**

A. Para (i) under Clause (6) of Part I of the First Schedule to the CA Act, provides for scope of such representation, which an Auditor is entitled to make under Section 225 (3) of the Companies Act, 1956. Section 225(3) of the Companies Act, 1956 permits a retiring auditor to make a representation in writing (not exceeding a reasonable length) to the company. The proposition of the partner to highlight contributions made by the firm in strengthening the control procedures in the representation should not be included in such representation because the representation letter should not be prepared in a manner so as to seek publicity. The Code of Ethics issued by the Institute makes it amply clear that the right to make representation does not mean that an auditor has any prescriptive right or a lien on an audit. The wording of his

representation should be such that, apart from the opportunity not being abused to secure needless publicity, it does not tantamount directly or indirectly to canvassing or soliciting for his continuance as an auditor. The letter should merely set out in a dignified manner how he has been acting independently and conscientiously through the term of office and may, in addition, indicate if he so chooses his willingness to continue as auditor if re-appointed by the shareholders. Thus, such action proposed by a firm could not be approved since, it may lead to his being held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the CA Act.

**Q. Can a Chartered Accountant in practice accept original professional work emanating from the client introduced to him by another member?**

A. No, Para (j) under Clause (6) of Part I of the First Schedule to the CA Act prescribes that 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.

**Q. Whether a Chartered Accountant in practice can give public interviews and also whether he can furnish details about himself or his firm in such interviews?**

A. Chartered Accountant in practice can give public interviews. While doing so, 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, which may hit clauses (6) & (7) of the First Schedule of the CA Act.

**Q. A Chartered Accountant in practice during a TV interview, handed over a bio-data of his firm to the Chairperson. Such bio-data detailed the standing of the international firm with which the firm was associated. It also detailed the achievements of the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the said bio-data during the interview. Is it a professional misconduct? (Case Study)**

A. Yes, Clause (6) of Part I of the First Schedule to the CA Act prohibits solicitation

of client or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means since it shall constitute professional misconduct. The Member would be held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the CA Act under the given circumstances.

**Q. Can a Chartered Accountant in practice/ firm of Chartered Accountants post the particulars of himself/itself on a website?**

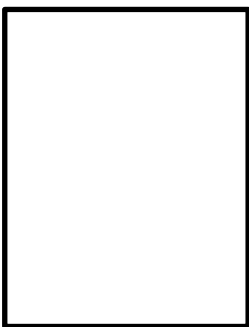
A. Yes, the Council has approved the detailed guidelines for posting the particulars on Website by Chartered Accountants in practice and firm(s) of Chartered Accountants in practice.



## Reviews and Audits under GST



GST law mainly functions under the principle of self-assessment wherein the taxpayers assess/determine the tax liability and discharge the same, which brings multiple challenges. These challenges in the new GST law make assessee tend to commit mistakes/errors. This further leads to unnecessary departmental interventions/litigations or revenue leakages of the exchequer..



**Misha**

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mistakes/errors. This further leads to unnecessary departmental interventions/litigations or revenue leakages of the exchequer.

One has to remember that the intention of the audit is not to threaten taxpayers but it is one of the methods to achieve transparency/accountability in the any Tax laws. The audits/reviews to be done under GST law are as follows;

### Audits mandated under GST law :

Definition of an Audit - Section 2(13) of the CGST Act defines the term "Audit", means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of :

- ◆ turnover declared,
- ◆ taxes paid,
- ◆ refund claimed, and

- ◆ input tax credit availed, and
- ◆ to assess his compliance with the provisions of this Act or the rules made thereunder;

GST law provides mainly three kinds of audits: all of them are not mutually exclusive and a registered person may be subjected to one or more of them on periodic basis as follows:

**STATUTORY AUDIT (SECTION 35(5) & RULE 80(3))** - Every registered person whose aggregate turnover during a financial year exceeds 2 Crore rupees shall get his accounts audited by a chartered accountant or a cost accountant and shall submit :

- ◆ a copy of the audited annual accounts,
- ◆ the reconciliation statement under section 44 (2)
- ◆ duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner

Further, Section 44 states that every registered person who is required to get his accounts audited in accordance with the provisions of section 35(5) shall furnish, electronically on or before the thirty-first day of December (for FY 2017-18 – 30th Nov 2019) following year the following:

- ◆ Annual return - GSTR 9
- ◆ Audited annual accounts
- ◆ Reconciliation statement – GSTR 9C
- ◆ Such other particulars as may be prescribed.

#### **SOME IMPORTANT ASPECTS TO BE REMEMBERED BY GST AUDITOR:**

- ◆ "Aggregate Turnover" is calculated on all India basis having the same PAN.

- ◆ If a registered person is liable to get his accounts audited under section 35 (5) of the GST Act then each registration acquired under the same PAN would also be liable for GST Audit.

- ◆ Role of CA/CMA is limited to reconciling the values declared in annual return with the audited annual accounts of the taxpayer.

- ◆ The turnover for the period of July'17 to Mar'18 of all the registrations having same PAN is considered for the year 2017-18.

- ◆ The ITC relating to the expenses availed in GSTR-9 shall be reconciled with expenses in audited financial statements in Table 14 of GSTR-9C.

#### **BEST PRACTICES TO BE ADOPTED FOR GST AUDIT :**

- ◆ Assess risk involved and convey the intention clearly to auditee on reporting aspects.
- ◆ Offer should clear the aspects such as scope, management's responsibility and limitation.
- ◆ Ensure that no conflict in accepting the offer. Ex: Internal auditor/book keeping not eligible for GST audit.
- ◆ Take engagement letter, appointment letter
- ◆ MRL wherever necessary.
- ◆ Have audit programme & checklist.
- ◆ Observations should not be vague or based on just oral explanations of auditee
- ◆ Verify ISD mechanism & cross charge including valuation mechanism
- ◆ Follow the relevant SAs, etc.

#### **DEPARTMENTAL AUDIT/AUDIT BY TAX AUTHORITIES (SECTION 65 & RULE 101) –**

To ensure whether the registered person has properly calculated & discharged the tax liability, it is imperative for the department to

conduct the audit of the records maintained by the assessee. In this regard section 65 authorizes conduct of an audit by the Commissioner or any other officer authorised by him by way of general or special order of the registered persons. The periodicity of an audit under this section shall be a financial year or part thereof or multiples thereof.

The audit will be conducted at the place of business of the registered person or office of theirs with an intimation of audit at least 15 days in advance in Form GST ADT-01. The audit is to be completed within 3 months from the date of commencement of audit, which may be extended by the Commissioner, where required, by a further period not exceeding 6 months.

As per Rule 101(3), the proper officer authorised to conduct audit of the 'records' and the 'books of account' of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the details prescribed therein.

On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings in FORM GST ADT-02.

In cases where tax liability is identified during the audit or input tax credit wrongly availed or utilized by the auditee, the procedure laid down under Section 73 or section 74 is to be followed.

### **SPECIAL AUDIT (SECTION 66 & RULE 102)**

- Availing of the services of experts is an age old practice of due process of law. These experts have rendered indispensable services to the process of delivering justice. One such facility extended by the Act is in Section 66 wherein an officer at any stage of scrutiny, enquiry, investigation or any other

proceedings under the Act not below the rank of Assistant Commissioner, duly approved, may avail of the services of a CA or CMA by considering the nature & complexity of the business and in the interest of revenue is of the opinion that:

- ◆ Value has not been correctly declared; or

- ◆ Credit availed is not within the normal limits.

By issuing a direction in FORM GST ADT-03, to the registered person to get his records audited by a CA or CMA specified in the said direction.

It would be interesting to know as to how these 'subjective' conclusions will be drawn and how the proper officers determine what is the normal limit of input credit availed, etc.

The Assistant Commissioner needs to obtain prior permission of the Commissioner to issue such direction to the taxable person. Identifying the expert is not left to the registered person whose audit is to be conducted but the expert is to be nominated by the Commissioner.

The CA/CMA so appointed shall submit the audit report, mentioning the specified particulars therein, within a period of 90 days which may further be extended by another 90 days to the Assistant Commissioner in accordance with provision of Rule 102(2) in FORM GST ADT-04.

The registered person is to be provided an opportunity of being heard in respect of any material gathered in the special audit which is proposed to be used in any proceedings under this Act.

The remuneration to the expert is to be paid by the Commissioner whose decision will be final. In case any possible tax liability is

identified during the audit, procedure under section 73 or section 74, as the case may be, is to be followed.

### **Audits/reviews not mandated in GST law**

These audits/reviews are not mandated in the GST law but will be conducted at the interest & request of the management. With the expertise in prevalent indirect taxes and knowledge of business process, CA/CMA's can be preferred source of these kinds of services. These will provide assurance to management that all necessary precautions as well as compliances have been done under GST. Those services could be any of the following types of audits/reviews;

(1) Management or compliance reviews/health checks under GST

(2) Area-specific reviews such as sales, ITC, RCM, documentation IT/ERP system exports and refunds, disputes and litigation management, etc.

(3) IT System Audit/Digital Audit: the Comptroller and Auditor General (CAG) is going to come up with an "End-to-End IT solution" to audit the Goods and Services Tax (GST) digitally soon.



## GLIMPSES



CHAIRPERSON CA. SILPA RAMDAS ADDRESSING THE PARTICIPANTS OF AICITSS-MCS BATCH-09 - VALEDICTORY FUNCTION ON 02-09-2019



MANAGING COMMITTEE MEMBER CA. SATHEESH T G HONOURING FACULTY CA. BYJU K V ON THE OCCASION OF TEACHERS DAY ON 05-09-2019



PARTICIPANTS OF AICITSS-MCS BATCH-09 WITH CHAIRPERSON & FACULTY



CHAIRPERSON ADDRESSING STUDENTS OF SWASRAYA SPECIAL SCHOOL, KUTTUR ON THE OCCASION OF MEMBERS ONAM CELEBRATIONS ON 05-09-2019



CHAIRPERSON CA. SILPA RAMDAS HONOURING FACULTY CA. ANWAR ABBAS ON THE OCCASION OF TEACHERS DAY ON 05-09-2019



ONA SADYA WITH STUDENTS OF SWASRAYA SPECIAL SCHOOL ON 05-09-2019