Professional Misconduct under Second Schedule

Q. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report?

A. Yes, the action of the member in signing two balance sheets on two different dates for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, which states that a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

Q. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?

A. Yes, as per Clause (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

Q. Whether a member in practice will be held liable for failing to keep moneys of his client in a separate banking account or to use such moneys for purposes other than they are intended for?

A. Yes, as per Clause (10) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to keep moneys of his client other than
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fees or remuneration or money meant to be expended in a separate banking account or uses such moneys for purposes other than they are intended for.

Q. Whether a member of the Institute will be liable, if he contravenes any of the provision of the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988 or the Guidelines issued by the Council?

A. Yes, as per Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988, made thereunder or any guidelines issued by the Council.

Generally Accepted Audit Procedure

Q. What constitutes “generally accepted audit procedure” for the purpose of Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949?

A. The expression “generally accepted audit procedure” would depend upon the facts and circumstances of each case, but guidance is available from the various pronouncements of the Institute issued from time to time by way of Quality Control and Engagement Standards, Statements, General Clarifications, Guidance Notes and Technical Guides, Practice Manuals, Studies and Other Papers.

Limitations on the number of Tax Audits

Q. Is there any ceiling on the number of tax audit assignments that can be taken up by a member in practice?

A. Yes, in the 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 Council General Guidelines, 2008, chapter VI of which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income-tax Act, 1961. The number specified for tax audits is 60.

Q. Where a Firm of Chartered Accountants has more than one partner, how many tax audits can be signed by one partner on behalf of other partners?

A. As per Chapter VI of Council General Guidelines, 2008, in case of Firm of Chartered Accountants in practice, specified number of tax audit assignments means tax audit assignments per partner of the firm, in a financial year. Therefore, if there are 10 partners in a firm of Chartered Accountants in practice, then all the partners of the firm can sign 600 tax audit reports. The maximum limit of 600 tax audit assignments may be distributed between the partners in any manner whatsoever. It is needless to say that the tax audit assignment should be in accordance with the Standard on Quality Control (SQC) 1: Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.

On Receiving Fees in Advance

Q. Can a Chartered Accountant receive his professional fees in advance partly or in full?

A. Yes, as such there is no bar in the Chartered Accountants Act, 1949 or in the Chartered Accountants Regulations, 1988, as well as Code of Ethics in taking the fees in advance.

Maintenance of the Books of Accounts

Q. Whether a member of the Institute in practice is required to maintain books of accounts?

A. Yes, in the 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 Council General Guidelines, 2008, Chapter V of which specifies that a member of the Institute in practice or the firm of Chartered Accountants of which he is a partner shall maintain and keep in respect of his/its professional practice, proper books of account including the following:- (i) a Cash Book; (ii) a Ledger.