

Ch. 19 - P.E. and Liabilities of Auditors

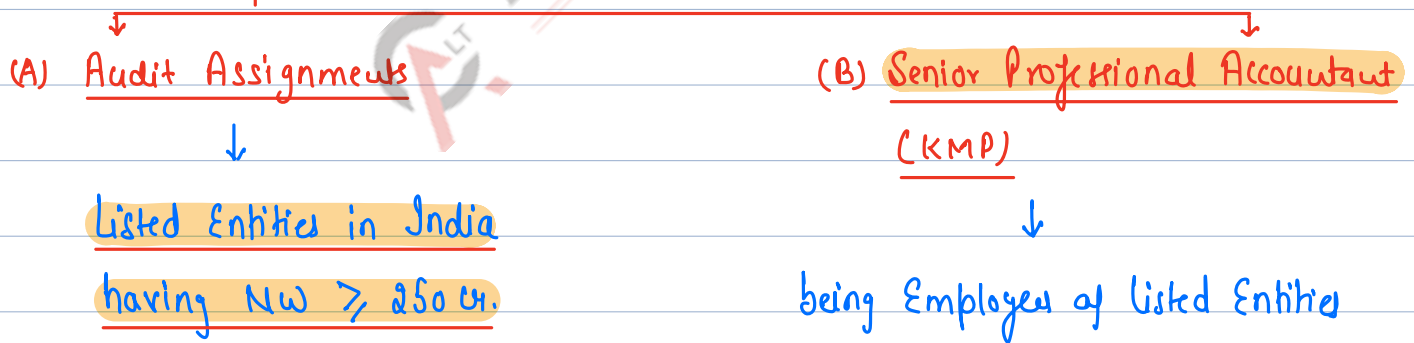
(1) Overview of Code of Ethics, Fundamental Principles, Threats, Circumstances creating Threats and Safeguards

(2) NOCLAR: (Non-compliance with laws and regulations)

(i) Meaning: Acts of Omission or Commission, intentional or unintentional, which are contrary to prevailing laws and regulations, committed by:

- (a) Client / Professional Accountant's employing organisation;
- (b) TCWG / Mngt. of client or employing organisation;
- (c) Other individual working for the client or employing organisation.

(ii) Applicability:



Note: NOCLAR will be applicable if a professional accountant is made aware of non-compliance or suspected non-compliance in the course of professional services to the client / employing organisation.

MCQ

- (a) If - aware of non-C
- (b) Investigate the Non-C
- (c) Ensure compliance - led
- (d) All of above

He is not required to investigate and not responsible for ensuring compliance of laws and regulations.

MCQ: While carrying out audit of X Ltd (having Nw - 490 cr; Shares listed on NY Stock exchange), Mr. Rohit Sharma, auditor, finds non-compliance with certain laws applicable over X Ltd.

Advise Mr. Rohit as to the requirements to be complied with:

- (a) Requirements of NOCLAR as specified in Code of Ethics;
- ✓ (b) " " SA-250; (ONLY)
- (c) Both (a) and (b)
- (d) Either (a) or (b).

(iii) Responsibilities of Senior Professional Accountant: (CA. X - CFO - ABC Ltd.)
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PMLA-violation

- (a) Obtain an understanding of the Matter.
- (b) Address the Matter with Immediate Superior.
- (c) Determine whether further action is needed.

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For Example:

- (i) Informing the management of Parent Entity, if any;
- (ii) Disclosing the matter to appropriate Authorities;
- (iii) Resign from the Employing Organisation.
- (d) Seeking advice from others including legal counsel.
- (e) Determine whether to disclose to appropriate authorities.

(iv) Documentation: Professional Accountants are required to document the following:

- (a) How Mngt./TCWG has responded to matter.
- (b) Course of action considered; judgements made and decision taken;

(c) How Accountant satisfies that responsibilities of public interest has been fulfilled.

(v) NOCLAR vs. SA 250:

- Noting How -

	NOCLAR	SA-250
(A) <u>Applicability</u> .		
(B) <u>Scope</u> .		
(C) <u>Coverage</u> .		

(3) Relevant Provisions of Chartered Accountant Act, 1949:

(I.) Membership of the Institute:

(A) Types of Membership (Sec.5): (i) Associate ; and (ii) Fellow.

(B) Particulars to be entered in the Register of Members (Sec.19):

(i) Full Name ; Date of Birth, Domicile; Residential and Professional Address.

(ii) Date of Entry.

(iii) Qualification.

(iv) Whether hold CoP.

(C) Disabilities (Sec. 8):

- (i) Age < 21 years;
- (ii) Unsound mind;
- (iii) Undischarged insolvent;
- (iv) Discharged insolvent, but Certificate from Court not obtained as to the fact that insolvency was due to misfortune;
- (v) Convicted by a Court of an offence involving Moral Turpitude or offence of non-technical nature; (unless pardon recd from (C.G.))
- (vi) Removal from membership due to professional or other misconduct.

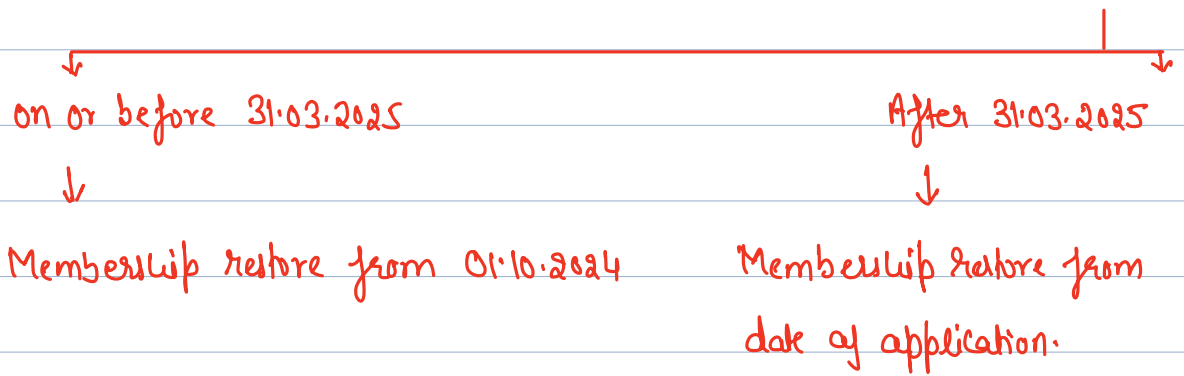
(D) Removal of Name from Register of Members (Sec. 20):

- (i) Death
- (ii) On receipt of request from the member.
- (iii) Non-payment of annual membership fee.
- (iv) Misrepresentation of facts while applying membership vs 8.

(E) Restoration of Membership: (If cancelled due to non payment of Annual fees) (Regulation 19)

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| (i) If Arrear of fees, along with Entrance fees and additional fees, if any prescribed by Council, paid on or before end of relevant FY | (ii) If Arrear of fees, entrance fees and additional fees, not paid on or before end of relevant FY |
| ↓ | ↓ |
| Membership will be restored from the date of cancellation. | Membership will be restored on <u>date of application for restoration</u> (along with payments). |

For Ex: Membership of Mr. X cancelled on 01.10.2024 due to non payment of fees. Application for restoration (along with payment of fees) made



(F) Penalty for false claiming to be a Member (Sec. 24):

(A) First Conviction: Fine upto ₹ 1,000.

(B) Subsequent Conviction: Fine upto ₹ 5,000

or

Imprisonment upto 6 Months

or

Both

II. Chartered Accountants in Practice:

(A) Certificate of Practice (Sec. 6):

No member of ICAI, whether in India or outside India, shall be entitled to practice, unless he has obtained a Certificate of Practice.

Notes:

(1) Members of ICAI, cannot accept any work prescribed for practicing CA, in his capacity as a member of ICAI, unless he hold CoP.

(2) If a member surrenders his CoP for certain period, due to any misconduct, he cannot accept any work in his capacity as a Member of ICAI.

However, for that period, work in other capacity can be accepted, e.g. as Advocate, Insolvency Professional, GST consultant, Registered Valuer.

Cancellation of CoP (Regulation 10) : - from book -
Restoration of CoP (Regulation 11) :

(B) Members Deemed to be in Practice [Sec. 2(2)]:

A member of the Institute shall be deemed to be in practice, when individually or in partnership with another CA in practice

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for a consideration

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engages himself in prescribed activities.[★]

★ - Accountancy work;

- Auditing / Verification / Certification;

- Assistance in Accounting Practices; or

- Management Consultancy and other services as prescribed for a CA in practice.

Notes:

(1) Sec. 2(2)(iv) of CA Act, 1949 provides that a member shall be deemed to be in practice, if he renders such services, as in the opinion of the Council, can be rendered by a CA in Practice.

(2) Council of ICAI passed a resolution mentioning therein entire range of Management Consultancy and other services, which a practicing CA can render.

(3) Accordingly, a practicing CA can render multiple services as specified in the resolution, including _____.

(a) Personnel recruitment and selection;

(b) Acting as adviser or consultant to an issue;

(c) " " Registered valuer under the Companies Act, 2013.

(d) " " Insolvency Professional in terms of IBC, 2016.

(4) However, it is specifically prescribed that a CA in practice cannot render

(a) Broking;

(b) Underwriting; and

(c) Portfolio Management.

H.W. → Do written practice of any 2 Questions
