The

Registered Accountants' Journal

(Conducted under the auspices of the Society of Auditors, Madras.)

Edited by:
K. V. SRINIVASAN, B.Sc., G.D.A., R.A.

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1. We deem it our good fortune that we were given an opportunity of witnessing a pleasant function at the crowded Court Room of the Income-tax Appellate Tribunal on 19th February 1946. We refer to the retirement of Sri P. N. S. Aiyar, B.A., G.D.A. R.A., Accountant Member of the Tribunal. The heights to which Mr. Aiyar rose in the profession and the recognition of his merits by the Government afford us a spectacle of what an Accountant can achieve by a thorough mastery of the subjects before him, constant industry, a correct appreciation of humour and a genial temperament. Mr. Aiyar, who had combined in him all these qualities, has shown us the way and we should keep him in our minds' eye for success in the profession. His retirement from the Tribunal makes his services once more available for the benefit of the profession in general and we should not let slip this opportunity by stinting to draw on the rich experiences of the distinguished veteran in the profession. We take the opportunity of wishing him long life and prosperity.

2. **The status of the Accountancy profession.**—The retirement of Sri P. N. S. Aiyar from the Madras Bench of the Income-tax Appellate Tribunal gives us an opportunity to refer again to the advancement of the status of the profession. We had urged on our readers and on Registered Accountants in general in our columns in an earlier issue to devote some thought to this

pressing question. We had also indicated some of the lines on which it will be advantageous for the profession to pursue in this matter. In his reply to the references made to his services by the local Bar and the Society of Auditors, Madras on the eve of his retirement, full details of which are published elsewhere, Sri P. N. S. Aiyar has stressed on the adoption of a common standard of efficiency and joint responsibility, in order to win public esteem. Referring to Registered Accountants he said "Each one of them must feel responsible for the work of the other". He has further remarked "It is in their hands to *assume responsibility*, model their work and secure better recognition from everybody." To achieve this in quick time, we believe, the words which we have italicised above, if converted into action, would point the surest way. Every Registered Accountant should use his Provincial Association effectively to this end, since this responsibility can be best undertaken only by Associations and not by individual Accountants. It should be the aim of each such Provincial Association to maintain professional standards in their respective Provinces. They should be in a position to weed out those Accountants who cannot or would not keep up to this standard. They should also ensure for each member his minimum fees for maintaining a standard of living which would be in consonance with the dignity of the profession. We repeat no one can question the authority of the local Associations if *all* Registered Accountants join them and follow their dictates in matters relating to the uniformity in their work, their Report and their fees. The right of the Association to lay down healthy conventions in these matters, if conceded by members and accepted by each and everyone of them, will naturally go to increase the public esteem of the profession. No one should feel that their individual rights are interfered with. The universal truth that nothing can be achieved without some sacrifice should be realised After all any achievement of the Society or Association is achievement of the individual members.

SPECIAL ARTICLES

Sub-section (1) of section 86-D, sub-sections (1) and (2), of section 87-D, of the Indian Companies Act, 1913.

(M. S. SRINIVASAN.)

The scope and meaning of the above sub-sections are examined hereunder with a view to invite criticism of the interpretation given in the course of such examination.

For purposes of convenience and ready reference the above sub-sections are quoted below:

86-D(1) "No company shall make any loan guarantee, any loan made to a director of the company or to a firm of which such director is a partner or to a private company of which such director is a member or director."

87-D(1) "No company shall make to a managing agent of the company or to any partner of the firm, if the managing agent is a firm, or to any member or director of the private company, if the managing agent is a private company, any loan out of moneys of the company or guarantee any loan made to a managing agent."

87-D(2) "Nothing contained in this section shall apply to any credit held by a managing Agent in a current account maintained subject to limits previously approved by the board of directors by the company with the managing agent for the purposes of the company's business."

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The sub-section (1) of section 86-D deals with loans to directors, and sub-section (1) of section 87-D deals with loans to managing agents. The word, "loan," according to Wharton's Law Lexicon means—

> "Anything lent or given to another on condition of return or repayment."

The ordinary dictionary meaning of the said word is—

> "Something lent to another for his temporary use," or "sum of money lent to another with or without interest being payable."

While the sub-section (1) of section 86-D uses the words, "any loan", sub-section (1) of section 87-D uses the words, "any loan out of moneys of the company." As the general meaning of the word "loan" is "something lent to another for his temporary use" or "a sum of money lent to another", it has to be presumed that sub-section (1) of section 86-D prohibits all kinds of loans, whether of money or of things other than money, to a director and that sub-section (1) of section 87-D prohibits loans of money to managing agents. While a director cannot have a loan of a book or a horse belonging to the company, a managing agent can have such loans.

Though sub-section (1) of section 87-D prohibits loans to a managing agent, sub-section (2) of the same section modifies the rigour of the first sub-section. The sub-section (2) as quoted above when put into proper English will read as follows:

> "Nothing contained in this section shall apply to any credit held, subject to the limits previously approved by the board of directors, by a managing agent in a current account maintained, for the purposes of the company's business, by the company with the managing agent."

For a proper interpretation of the sub-section an examination of the meaning of the phrases, "any credit held by a managing agent in a current account", and "in a current account maintained for the purposes of the company's business" is necessary.

According to Hart's Law of Banking, Vol. I, page 185,

> "According to modern legal theory money paid into a current account is lent by the customer to the banker". "Money", said Lord Chancellor Cottenham in FOLEY

vs. HILL, "when paid into a bank ceases altogether to be the money of the principal; it is then the money of the banker, who is bound to return an equivalent by paying a similar sum to that deposited with him when he is asked for it. The money paid into the bankers is money known by the principal to be placed there for the purpose of being under the control of the banker; it is then the banker's money; he is known to deal with it as his own;.....he is guilty of no breach of trust in employing it; he is not answerable to the principal if he puts it into jeopardy, if he engages in a hazardous speculation; he is not bound to keep it or deal with it as the property of his principal; but he is, of course, answerable for the amount, because he has contracted, having received the money, to repay to the principal, when demanded, a sum equivalent to that paid into his hands .....the banker is not an agent or factor but he is a debtor."

Therefore, when the company pays its money into a current account maintained by it with its managing agent, such money becomes the money of the managing agent and he is at liberty to deal with it in any manner he likes subject to the only condition that he is to repay the same on demand; it becomes a loan to the managing agent. The managing agent is allowed by the company to overdraw in the current account upto the limit previously fixed by the directors.

The said sub-section does not stop there. It qualifies the nature of the current account. The current account must be maintained for the purposes of the company's business. If the amount overdrawn is used by the managing agent for purposes other than those pertaining to the business of the company, can it be said that the current account is maintained for the purposes of the company's business? If the phrase, "a current account maintained for the purposes of the company's business", means that money paid into it by the company must be utilised by the managing agent for the purposes of the company's business, then such money is not allowed to be dealt with in any manner which the managing agent may deem fit. Therefore, such money does not become his own. He simply becomes a bailee, a custodian. It is not a loan in any sense of the word, it cannot be said to be credit held in current account. The presence of the phrase, "for the purposes of the company's business" makes it difficult to find out the meaning of the sub-section. If the said phrase is dropped out, there is no doubt about the scope of the sub-section. If the phrase, "a current acccount maintained for the purposes of the company's business" means that any money paid by the company into the current account is expected to be used for the business of the company, there is no meaning in asking the managing agent to pay interest on the sum so overdrawn by him.

Again, under sub-section (9-A) of section 2 of the Indian Companies Act, 1913, a managing agent may be an individual, a firm or a company. Therefore, a director of a

company may be a managing agent, a partner of a managing agency firm, or a member or director of a private company which is the managing agent of the company. In all these three cases an individual has combined in him two offices: one that of a director and the other that of a managing agent. In such cases a loan to the managing agent under sub-section (2) of section 87-D must be considered to be a loan given to him in the capacity of a managing agent and not that of a director. In such cases, the express permission given in sub-section (2) of section 87-D must be deemed to be an exception to the general prohibition contained in sub-section (1) of section 86-D. "When a general intention is expressed, and also a particular intention which is incompatible to the general one, the particular intention is considered an exception to the general one." Maxwell's Interpretation of Statutes.

A loan has to be distinguished from a debt. A loan creates a debt but a debt cannot be said to create a loan. Therefore, when a company sells, in the usual course of its business goods on credit, to a director, the company does not make a loan to the director, the company does not normally expect the director to return the goods purchased by him, the company only expects the director to pay the value of the goods. The transaction does not create a loan but it creates only a debt due by the director. In this connection the following lines from Practical Auditing, by Spicer and Peglar, 17th edition, page 276, are relevant.

"It may be difficult to determine in all cases what payments to or indebtedness by directors will come under this provision as to "loans"; in many instances, particularly in the case of private companies, the directors may have a current account with the company, or may purchase goods from the company for which they do not pay for some considerable time. It is suggested that where directors discharge obligations incurred in the ordinary course of trading with the company, within the usual term of credit allowed to other persons, any amounts of this nature outstanding could be treated with other sundry debtors, but every other case should be carefully scrutinised by the auditor, especially in view of the obligation upon him to supply in his report any information not sufficiently disclosed."

Further opinion to the same effect may be had in page 558 of the "Accountant" for the year 1935.

In the case of trading companies the making of loans is an investment. In the case of concerns managed by managing agents under the provisions of section 87-G, a managing agent can make an investment only under the authority of the directors and within the limits fixed by them, and there cannot be delegated to the managing agents a power to invest. Under such circumstances, if a managing agent overdraws the funds of the company without the authority of the directors, it will amount to a misappropriation of the funds of the company, temporary or permanent according to the circumstances of the case. Sub-section (3) of section 87-D provides

a penalty only in cases of the contravention of the provisions of subsection (1) of the same section. In cases where the directors do not knowingly allow any credit, but the managing agent avails himself of a credit in the current account, the company will have to requisition the provisions of the general law for such contravention.

ASSOCIATION NOTES

The Annual General Body Meeting of the Society of Auditors was held on the 26th January 1946 at the Society's premises in Armenian Street, George Town, Madras. The Accounts of the Society for the year ended 31-10-45 and the Executive Committee's Annual Report were passed unanimously. The following office-bearers were elected :—

President :

Sri R. N. Rajam Aiyar.

Vice-President :

Sri B. Purushotham.

Hony. Secretaries :

Sri K. V. Srinivasan
Sri V. Soundarajan

Treasurer :

Sri V. Soundarajan

Other Committee Members :

Mr. C. Gill
„ P. S. Subramania Aiyar
„ M. S. Krishnaswamy
„ C. V. Ramaswamy
„ R. Venkatesan
„ L. S. Mathurbutham Aiyar
„ S. P. S. Aiyar, and
„ V. Swaminathan

Hony. Auditor :

Mr. V. Natarajan

Retirement of Sri P. N. S. Aiyar from the Income-tax Appellate Tribunal Madras

On the eve of the retirement of Sri P. N. S. Aiyar from the Madras Bench of the Income-tax Appellate Tribunal on 19-2-1946 references were made in the Court Room in appreciation of his services. Mr. M. Subbaroya Ayyar on behalf of the Bar referred to Mr. P. N. S. Aiyar's successful career as a Registered Accountant and to his brilliance as a Member of the Tribunal.

On behalf of the Society of Auditors, Madras, the President, Sri R. N. Rajam Aiyar said :

"On behalf of the members of the Accountancy profession who have had occasions to appear before you we take the opportunity of expressing our appreciation of your services as a member of the Income Tax Appellate Tribunal on the eve of your retirement.

The accountancy profession in India is only of recent origin among important professions and may therefore be said to be still in the infant stage compared with the veteran professions of Law and Medicine, the origin of which may be traced back to the days when man became civilized. Although some form of legislation for companies had existed since 1857 when

the first Companies Act was enacted it was not until the amending Act of 1913 that some sort of restrictions were first sought to be introduced. But the actual need for organising the profession came to be realised in 1932 when the Auditors' certificate rules were enacted, thus affording an opportunity to lay down healthy conventions, usages and rules to govern the conduct of the members. The responsibility for these lay with the first generation of accountants for the benefit of the posterity. The profession has still to rise up in public esteem and that can only be achieved by irreproachable professional conduct, unflinching loyalty to rules and a high sense of public duty.

The Indian Income Tax Amending Act of 1939 may be considered as the first landmark in the history of the profession. The opportunity afforded by it for public service went a long way in raising the status of the members of the profession and increasing confidence in the professional services. You were one of the first members of the profession chosen for service on the Tribunal by the Government. At the time many of us who had been watching your professional activities with considerable interest considered your selection a certainty in view of your outstanding personal attainments, your capacity for organisation and your thorough knowledge of men and things. As a senior member of the profession you have rendered immense service by encouraging young men with high academical qualifications to take up to the profession by entertaining them as apprentices in your office and giving them all help and facilities to qualify th[illegible] degree in

selves for the profession. Your keen sense of discipline has been the cause for your success and your high standard of moral rectitude has been an example to us. We greatly appreciated your endeavour to promote among the members the spirit of *esprit de corps*. Many of us remember your suggestion before taking up your office that the formation of the Tribunal gave the legal and accountancy profession an opportunity to come together and particularly your emphasis on the desirability of co-operation between them. As a matter of fact the accountancy profession has been largely co-operating with the legal profession and we are looking forward to the legal profession responding in a similar manner to the accountancy profession, as on questions of fact the Accountant by reason of his professional knowledge is better placed.

We are proud of you in that you have in no small measure contributed to the raising of the status of the members by your outstanding ability and diligent handling of the appeals that came up before you for disposal and discharging your duties without fear or favour. Your high sense of justice and fairplay have earned for you a name and fame among the assessee public. Your knowledge of various trades and business in detail, your mastery of the facts and your profound knowledge of the Income Tax law stood in good stead in meting out justice. Some of us who have had opportunity to appear before you were greatly impressed with the way in which the cases were handled [illegible] that gave us the opportunity to learn by experience.

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that you overlooked our shortcomings and helped us not a little in presenting our view points precisely having an eye on the correctness of the facts presented. You have so worthily filled the place you were chosen for, that we could not adequately express in words the unique services rendered by you, first to the assessee public and then to the profession to which you belong.

We heartily welcome you back in our midst so that with your experience and influence you can guide us to work for and achieve a high standard of professional skill and professional conduct comparable to that prevailing in the other learned professions. The urge for it is accentuated by the fact that the Accountant has an important part to play in the post-war reconstruction when his advice will be frequently sought by the Industrial, Commercial and Governmental organisations.

We take this opportunity of expressing our great appreciation of your services and the part played by you in raising the credit of the profession in the public eye. We wish you many long years of useful service to the profession and the public.

Mr. N. Ramaswamy Aiyar representing the Income-tax Department wished him long life. Mr. S. M. Gupta, the Judicial Member of the Tribunal, said that Mr. Aiyar's exposition of Law had been a revelation to him.

Replying to the references, Mr. P. N. S. Aiyar thanked for the generous measure in which all expressed appreciation of his work on the Tribunal and referring to Income-tax work in the Province said:

"So far as the assessments are concerned, I may say the work in the Province is of a high order. A senior Commissioner of Income-tax once expressed that the Officers of the Madras Province were most clever, most sensible, most fair and most honest. The training they have had, a very large number having been recruited in the beginning from the Secretariat has possibly enabled them to develop a method of approach not ordinarily found elsewhere. There have been, occasions when it was indicated how certain questions have to be approached. I am glad to say that such indications were followed."

Referring to the Registered Accountants he said "So far as the Registered Accountants are concerned, I may say that they are doing their best. Not one case of an account certified to by a Registered Accountant had come up before me for adjudication. On one point I must point out that there does not seem to be any common understanding amongst them in this Province. Each one of them must feel responsible for the work of the other. Until then the profession as a whole will not be having its due recognition. If each Registered Accountant sets up his own standard of work and responsibility, it must be obvious that it will not help the profession. To win the public esteem the members of the profession must adopt a common standard of efficiency and evince joint responsibility. With an assured standard of efficiency and acknowledged responsibility if the Registered Accountants carry on their work, they could surely win

recognition easily and all hardships will vanish. It is in their hands to assume responsiblity, model their work and secure better recognition from everybody".

Mr. P. N. S. Aiyar continuing said: "With my experience of the whole country as a practising accountant for over 25 years and as an Accountant Member of the Income-tax Appellate Tribunal for five years, I find that while there is only one Act applicable to the whole country, in the matter of assessment the practice varies. Each Province has its own precedents. It will be advantageous if there is any agency to gather information regarding the various practices in the several provinces and make such information available to the ordinary class of assessees throughout the country so that the able tax payer amongst them may use that information himself. While the rich tax payers are generally well-advised and are able to settle their assessments easily and satisfactorily the average tax payer has not the same facility, partly due to ignorance and partly due to want of competent and honest advisers. It is about 25 years since the Income-tax Act, 1922 came into force. Still there are a large number of assessees of poor understanding who are beginning to realise now that it does not pay to remain ignorant. It is therefore necessary in the interests of these tax payers that an organisation is set up from which they could have reliable information and dependable service. They can then easily learn what is expected of them and confidently comply with what is required of them. They can then save the Department from annoyance and themselves from worry and inconvenience. If the tax payer could have near at hand an accredited agent of any responsible organization to assist him with information and help him with advice in regard to his complying with the requirements of the Income-tax Department, it will be an advantage to the general tax payer and a welcome relief to the overworked officer. For doing this service to the ordinary tax payer there is no person better fitted than the Registered Accountant."

"The number of practising Registered Accountants," he continued, "is small compared to the size of the country and the numbers of tax-payers to be served. There are very many big business centres where there is not even one practising Registered Accountant. Owing to the rapidly growing demand for their services to serve the ever-increasing demands of commerce, industry and taxation it is not possible for them to advise the general public in the moffusil and in the country conveniently."

In conclusion Mr. Aiyar said, "It is, therefore, necessary to bring to service an army of persons qualified to serve the business public throughout the country. If the Universities impart education to young men in commercial subjects like banking, insurance, economics, statistics and accountancy, they will be meeting a pressing demand. After the necessary preliminary education the alumini could be provided with practical training by the University itself at convenient places when they would turn out to be of real and useful help to the business men and will render all help to these persons and become useful members of the business community."

STUDENT'S CORNER

Balance-Sheet—Audit

(S. P. S. IYER, R.A.)

(*Continued from page 70.*)

Cost of Property.—In preparing the leading Schedules for the accounts grouped under this heading, such as real estate, buildings, plant, machinery etc., the balances at the beginning of the period, the additions or deductions to the accounts during the year and the balances at the end of the period should be shown. The total of the balances at the beginning of the period should agree with the cost of property figures shown in the balance sheet at that date, and the balances at the end of the period with the amount shown in the Balance Sheet that is being audited. The charges entering into the additions should be verified in detail and in this connection the following notes may be of value:

1. Authorisation for the expenditures made during the year should be examined, and where the costs of the additions have overrun the sums authorised, inquiries should be made in regard thereto. The authorization should show the accounts to which the expenditures are chargeable, the amounts thereof, the approvals of the Comptroller and Manager, and description of the job. When the authorisations are not specific as to the work done, the actual additions should, if possible, be inspected.

2. The Auditor should satisfy himself before approving additions that they were made with the object of increasing the earning capacity of the plant, and that they are not of the nature either of renewals or improvements, and in this connection charges in the production and capacity of the plant should receive consideration.

3. To verify the pay-roll and store and supply charges to jobs, one or two pay-roll distribution reports should be examined in detail and also one or two store-house reports. In cases where large purchases have been made from outside parties for capital construction work the vouchers therefor should be examined and the usual precautions taken to see that they are properly approved for the receipt of materials, prices etc.

4. For purchases of real estate, the Title Deeds should be examined together with the vouchers, and it should be seen that the Deeds have been properly recorded.

5. While it may be considered permissible to make a charge for factory burden to additions to property, it cannot be deemed conservative business practice, in as much as the probabilities are that the over-head charges of a plant will not be decreased to any material extent, even though additions are not under way, and therefore, the absorption in cost of properties when additions are in progress has the effect of reducing the opening costs as compared with months in which no construction work is under way.

6. Construction work in progress at the end of the fiscal period should be shown in the Balance Sheet under the heading of cost of properties, and not as part of the inventories.

7. The auditor should inquire as to whether any instalments are due on account of construction work in progress which is being carried out by outside parties, and if so, the liabilities for these instalments should be included in the balance sheet, as they must have a direct bearing on the amount of available cash on hand.

8. When a company uses leasehold properties, the leases should be examined and notes made of the periods covered, so that it may be seen that improvements, etc., on such properties are written off over the periods covered by the leases.

The treatment of Goodwill, patent rights, patterns, moulds, tools, dyes, jigs, etc., varies so much with each particular class of business that it would not serve any good purpose to discuss them herein.

Inventories.—In as much as the accuracy of the profit and loss account is absolutely dependent upon the accuracy of the inventories of merchandise at the beginning and end of the period under review, this part of the verification should receive special attention in an audit. Furthermore, when a Balance Sheet audit is being made for the first time, the inventory at the beginning of the period should receive as much consideration as that at the end, and the Auditor should take every precaution to satisfy himself that both inventories are taken on the same basis.

The principal schedule supporting the inventories should show a comparison between the inventory at the end of the fiscal period and that at the beginning, arranged under suitable main headings, and a short description should be given of the actual verification, work done.

(*To be continued*)

NOTIFICATIONS.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Ordinance No X of 1946

New Delhi, the 5th February 1946.

An Ordinance to provide for the determination of the termination of the present war for certain purposes.

Whereas an emergency has arisen which makes it necessary to provide for the determination of the date of the termination of the present war, for certain purposes.

Now, therefore, in exercise of the powers conferred by Section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c.2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the termination of War (Definition) Ordinance 1946.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. **Declaration of date of termination of present war.**—For the purposes of any provision made after the 2nd day of September 1939, in any enactment or in any notification, rule or order under any enactment or in any contract, deed or other instrument, making any reference, express or implied and in whatever form of words, to the present war or the present hostilities, the present war and the present hostilities shall, unless in the case of such a reference in any contract, deed or other instrument as aforesaid the subject or context otherwise requires, be deemed to continue to, and to end on, the day on which the Proclamation of Emergency made on the 3rd day of September 1939, under Section 102 of the Government of India Act, 1935 (26 Geo. 5, C 2) is revoked.

Provided that nothing in this section shall apply to or prejudice the exercise of any power conferred in whatever form of words in any such provision as aforesaid on any Government, authority or persons to declare for the purpose of such provision on what specified date the present war or the present hostilities or the present emergency shall be deemed to end.

WAVELL.

Viceroy and Governor-General.

DEPARTMENT OF COMMERCE

REGISTRATION OF ACCOUNTANTS

New Delhi, 16th February 1946

No. 1-A(8)/44.—In exercise of the powers conferred by sub-section (2) of section 144 of the Indian Comp[illegible] Act, 1913 (VII of 1913), the Central [illegible] Government is pleased to direct that the following further amendments shall be made in the Auditor's Certificates Rules, 1932, the same having been previously published as required by the said sub-section, namely:—

In Appendix 3 to the said Rules—

(1) In item (5), for the words "like means" the words, "means partaking of the nature of advertisement" shall be substituted.

(2) After item (5), the following Note shall be inserted, namely:—

"*Note.*—The use of any designation or expression except "Registered Accountant" on professional documents, visiting cards or sign boards shall be construed as "advertisement" within the meaning of the above item unless it be—

(a) A title of honour conferred by Government;

(b) A title indicating membership of a recognised Institute or Society as specified in Rule 7 of the Auditor's Certificates Rules, 1932;

(c) A degree of a University constituted by law in the United Kingdom or Burma or India without reference to any special merit or distinction achieved;

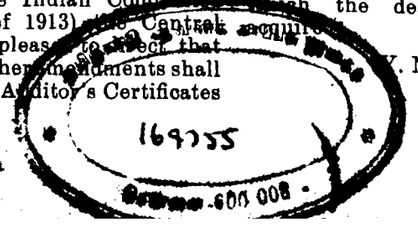
(d) The letters "G.D.A." and/or the designation "Government Diplomate in Accountancy"; or

(e) The word "Auditor" or "Auditors".

2. Registered Accountants entitled to style themselves as "Certified Accountants" according to the Auditor's Certificates Rules of an Indian State, who are not members of the Scottish Institute or Society of Chartered Accountants shall not use the letters "C.A." after their name without specifying the source from which the designation has been

[illegible] V. N. SUKTHANKAR.

Joint Secretary



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