

Date: 24th August 2020

To,

The Director

Department of Co-operative Audit

No. 17, Jayanivasa, Shankarmutt Road,

Basavangudi,

Bangalore-560 004

Hon'ble Sir / Madam,

**SUBJECT: REPRESENTATION SEEKING RELIEF MEASURES IN THE AUDIT
OF CO-OPERATIVES**

The Karnataka State Chartered Accountants Association (R) (in short 'KSCAA') is an Association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. KSCAA is primarily formed for the welfare of Chartered Accountants and represents before various regulatory authorities to resolve the problems / hardships faced by Chartered Accountants and business community.

We congratulate and applaud all your efforts of the department, for an excellent way in which it has been striving hard to discharge its statutory duties and functions as conferred under slew of the provisions, especially u/s 63 of The Karnataka Co-operative Societies Act of 1959 ('the act') and rule 29-A, 29-B, 29-C, 29-D, 29-F, 29-G, 30 and 30-A of The Karnataka Co-operative Societies Rules of 1960 ('the rules').

Chartered Accountants who are on the panel of auditors as maintained by your department are the members of The Institute of Chartered Accountants of India (ICAI). ICAI is a statutory body set up under an Act of Parliament in the name of The Chartered Accountants Act of 1949. ICAI is the professional accounting body which trains and regulates the profession of Accountancy in the country. It is the only licensing cum regulating body of the financial audit and accountancy profession in India. ICAI in addition to the role of training its members extensively and elaborately, acts as the regulator of this profession of Chartered Accountancy in India. In its role as a regulator, it formulates Accounting Standards in keeping pace with changing economic-scenario, suggests various governmental agencies in framing the accounting and auditing standards, frames & monitors the standard on auditing and enforces the ethical values as enshrined in Code of Ethics and proactively takes action against its erring members who are found guilty.

We wish to state that we have written to your goodselves on various occasions, populating issues and possible solutions which arise while discharging the duties as an auditor of the Cooperative societies. There are certain unaddressed genuine concerns which are have been causing unwarranted difficulties and hardship to our members while performing their audit of Co-operative societies in the state. We thought to bring these concerns on the table through this representation, we urge you to take cognizance of these concerns and hardships as faced by our members and provide amicable resolutions to enable our members to discharge their onerous audit function in a more efficient and effective manner in future.

i. Letter from Joint Directors seeking certain details-

Recently, some of our members are in receipt of a letter from the Joint Director seeking among many things, details of following information from our members –

- Name, qualification and experience of individual staff members employed
- Number of audits being handled of Co-operative societies
- Number of audits being handled of Souharda societies
- District wise break up of audits being handled of Co-operative societies and Souharda societies

The letter further mentions, in case of non-submission of details or delay in submission of such details by the members, the letter contained a scathing warning of consequences of rejection from acceptance of audit reports by the department.

It was appalling to note that the said letter does not overtly mention any relevant provisions of the statute or rules conferring those powers to the officer. It is a generally accepted cardinal principle of every officer of the Government that while sending communications, should clearly make a mention of relevant provisions of the law under which he is exercising powers for sending such communications. Thus, the concerned officer does not have any statutory jurisdiction for sending such letter to our members seeking details mentioned therein. Ergo, our members are not obliged to respond to such letters written without the authority of law. Regretfully, it seems to us that this letter was written with a prejudiced approach and out of spite by the said officer.

We request you to issue necessary instructions to your concerned officers to kindly restrain from sending such extra jurisdictional communications in future and withdrawal all such communications if already sent.

ii. Submission of 'A Statement'-

Regarding the department's requirement that all our members to submit periodic monthly audit progress report in form name 'A Statement' to jurisdictional DD or JD.

We would wish to bring to your kind notice that our members are governed by the strict code of ethics of ICAI which espouses the manner and conduct of members during their professional practice. Further, our members are also required to adhere to the Standards of Auditing as prescribed by ICAI while discharging their onerous duty as an auditor of any client, including co-operative societies. These Standards of Auditing are mandatory in nature and are followed by all our members across India.

We regret to mention that, the requirement of furnishing of the periodical statement amounts to an excessive intrusion by the department in to the normal working of our members. Therefore, puts an unwarranted shackle on the paths of efficient discharge of their onerous duties as an auditor of the co-operative societies. These type of unwarranted reporting practices, is not in vogue in the audits performed by our members under Companies Act, Income tax Act, Goods and services Act, etc. However, these statutes prescribe penal consequences where the reporting time lines are defaulted. In case of co-operative audits, our considered view is that the requirement of submission of this statement is a misplaced & impractical concept. Department in our considered and humble view has arrogated to itself the power of requiring compliance of submission of this statement by our members *sans* statutory jurisdiction.

We plead to withdraw this requirement of submission of 'A Statement'.

iii. Attending monthly meetings-

Aside from the requirement of submission of periodic monthly statement as referred above, our members have been also asked to physically come and attend periodical review meetings at the DD or JD offices to discuss and give an account of the progress of the audits being carried. This stance of the department of holding these review meetings and requiring the physical presence of our members in such meetings is unwarranted, unreasonable and causes undue inconvenience for our members. This goes on to indicate that the department is excessively interfering in the discharge of onerous audit functions by our members. In this regard we wish to bring to your knowledge that, the practice of holding these type of review meetings is not followed by any of the tax or regulatory authorities such as Ministry of corporate affairs, Income tax department and Goods & services tax department.

We therefore request your good selves to obliterate the requirement of holding such meetings and dispense on the requirement of our members' attendance in such meetings.

iv. Submission of Audit reports digitally-

Today we all are living in a digital era where almost all regulatory and revenue authorities like Ministry of corporate affairs, Income tax department, Goods and services tax department, etc accept audit reports from our members in digital mode after DSC authentication. Considerable enabling provision in Information Technology Act 2000, has allowed numerous departments to move to digital era and allowed smooth functioning of such departments. This is the current practice and so also a way forward trend with which these authorities would continue to function in future. The department still follows the traditional practice of accepting manual audit reports in paper form which requires unproductive travel and visit time to departmental offices. In this regard, we request your good selves to take leaf out of it and put necessary digital forms and put IT processes in place for enabling reporting of audit reports by our members in digital online mode. This would undoubtedly be fast, convenient, efficient and transparent way to conduct the affairs of audit function, which would enormously help our members, the Department of co-operative audit & the Registrar.

The departmental present requirement on submission of audit reports is that our members or their representatives submit a physical form and electronic form of audit report at DD or JD office.

On the premise of digital mode of report submissions, we hereby request to please obliterate the present practice being followed by your department and migrate towards more transparent and efficient system of report submissions.

v. Empanelment of auditors-

The list of auditors is prepared and maintained in accordance with first proviso to section 63(1) of the Act read with rule 29-B. In terms of these provisions the department needs to check the bona fide character of the applicant for empanelment and check whether he possesses necessary qualification and experience as espoused in explanation (i) and (ii) of section 63. It is however observed that, our member applicants who have submitted the application form for empanelment along with all supporting necessary documents have unnecessarily been called to visit department office premises in Bengaluru along with original source documents and scanned images of all documents in pen drive or compact disk form. You may be aware that our members are located in across various districts of state of Karnataka, they have been called to personally come travelling from far off places like Raichuru, Bidar, Belagavi, etc. and visit your office to take the stamp of validation for inducting in to the panel of auditors. After our members have submitted the applications at your office either personally or by postal route either way, why are they called to visit the department personally. We thought it is pertinent to mention that, the application for empanelment by our members is set to knot the department as long as such members do not personally come and visit your office. Further, the department does not have

any time threshold on the disposal of empanelment application as few of applications of our members are kept on hold with the department for more than 1 year.

In this regard, we may please suggest that, in order to comply with the requirement of sub rule 2 of rule 29-B of the rules whereby Director is duty bound to scrutinise the empanelment applications received from our members, this activity of scrutiny of applications may be delegated to jurisdictional DD or JD who are demographically closer in proximity to our members in their respective districts. Our suggestion is based on our understanding that the definition of expression 'Director' as provided in section 2 (a-4) of the Act *inter-alia* includes both DD and JD as well. This would make a world of a positive difference to our members by obviating their need of undertaking unwarranted travel to Bengaluru from far-off remote locations in the state for producing original education qualification certificates and scan images of all documents in pen drive or compact disk form.

We beseech and implore your good selves to

- **dispense this type of uncalled and unwarranted requirement of personal meetings which is nothing but only a source of causing undue hardship and difficulty to our members located at remote places in the state.**
- **do the needful to ensure that the process of empanelment of auditors becomes very convenient, smooth, simple, transparent and efficient without compromising on the requirements that the statute has with respect to scrutiny of application, qualification and experience of our members.**
- **dispose the application in time bound manner as few of applications of our members are kept on hold with the department for more than 1 year without any reason.**

With regard to points i, ii and iii as mentioned above, we would urge to draw your kind attention to section 63(20) of the Act of 1959 read with sub rule (10) of 29-B of the Rules, which empower your good selves only to “**co-ordinate**” with the co-operative societies and the auditors for ensuring completion of audit of accounts on a timely manner.

Also sub rule (12) of rule 29 of the Rules provides competence to your good selves to issue necessary “**Guidelines**” to the auditors for the purpose of ensuring timely completion of audit.

As per our reading of the provisions of the statute and rules referred above, we submit to your good selves that the department has *power or competency to issue only necessary guidelines and not mandatory instructions* to the auditors for the conduct of audit of co-operative societies. Under the garb of this specific power as referred above, the departmental officers have been issuing slew of various types of mandatory instructions to our members with negative consequences on non-compliance. The various letters or communications which contains these instructions to our members, to our surprise do not contain specific provisions of law under which such instructions issuing powers are used by such officers. Ergo, these mandatory instructions such as submission of monthly A Statement, attendance at the monthly meetings at department office, letter seeking certain details from auditors,

etc. are ex facie bad in law and hence patently do not warrant reply or compliance by our members.

We implore on you to interfere at this time and pass necessary advice and guidance to your departmental officers that they exercise reasonable care while issuing instructions and circulars, that they abstain from sending any future communications sans statutory jurisdiction and also sans mention of relevant jurisdictional provisions.

We at KSCAA sincerely hope that the department and auditors need to work in harmony and cohesively to benefit the stakeholders at large. We believe that various pain points, issues and practical difficulties of our members along with suggestions as listed in the foregoing pages would invite your kind consideration. We are also optimistic that your good selves would definitely make an 'all out' effort to ensure that the necessary steps would be taken to provide relief and resolution on all these issues.

Yours sincerely,

For Karnataka State Chartered Accountants Association ®



CA. Chandrashekara Shetty
President



CA. Chandan K Hegde
Secretary



CA. Sateesha Kalkur
Chairman –
Representation

Committee