

## CHAPTER - V

### ALLIED LEGISLATIONS

#### **The Chartered Accountants Act, 1949**

**5.1.1** The Chartered Accountants Act was enacted in 1949 to regulate the profession of Chartered Accountants and, for that purpose, to establish an institute. The Institute of Chartered Accountants of India (ICAI) was accordingly established in July, 1949, in terms of the provisions of the Act.

**5.1.2** The main objects of the Institute of Chartered Accountants of India are prescribing qualifications for membership holding examination and arranging practical training of candidates for enrolment, maintenance and publication of Register of Members qualified to practice the profession, carrying on activities for development of the profession and regulation and maintenance of status and standard of professional qualification of the Members. The Institute conducts examinations all over the country, provides postal/oral coaching and, arranges practical training, enabling students to qualify for the profession.

**5.1.3** The affairs of the Institute are managed by its Council which also discharges the functions assigned to it under the Chartered Accountants Act. The Council is composed of not more than 24 persons elected by the members of the Institute and six persons nominated by the Central Government.

#### **The Cost and Works Accountants Act, 1959**

**5.2.1** The Cost and Works Accountants Act was enacted in 1959 to regulate the profession of Cost and Works Accountants and for that purpose to establish the Institute of Cost and Works Accountants. The Institute of Cost and Works Accountants of India (ICWAI) was accordingly established in May, 1959, in terms of the provisions of the Act.

**5.2.2** Under the Cost and Works Accountants Act, 1959, the duties of carrying out the provisions of the Act are vested with the Council of the Institute of Cost and Works Accountants of India which is constituted under Section 9 of the Act. The Council is composed of not more than 12 persons elected by the members of the Institute and not more than 4 persons nominated by the Central Government. Accordingly, the Central Government has nominated 4 persons on the Council of the Institute.

#### **The Company Secretaries Act, 1980**

**5.3.1** The Company Secretaries Act was enacted in 1980 to regulate and develop the profession of the Company Secretaries and for that purpose to establish the Institute of

Company Secretaries of India (ICSI). The Institute of Company Secretaries of India was established in January, 1981.

**5.3.2** Under the Company Secretaries Act, 1980, the duties of carrying out the provisions of the Act are vested with the Council of the Institute of Company Secretaries of India, which is constituted under Section 9 of the Act. The Council is composed of not less than 12 persons elected by the Members of the Institute and not more than 4 persons nominated by the Central Government. Accordingly, the Central Government has nominated 4 persons on the Council of the Institute.

### **Amendment to Acts Regulating Professional Services**

**5.4.1** The professionals such as the chartered accountants, cost accountants and company secretaries, trained by ICAI, ICWAI and ICSI, provide a range of services to corporate entities and have a major role to play, especially in the new economic scenario, where many companies are raising funds from the capital market and are required to conduct their operations in the interest of a wide range of stakeholders. To ensure that in this new environment the professionals do their job with due diligence, are accountable for their work and are able to exploit new opportunities becoming available with the opening up to the world economy, proposals have been placed before the Parliament for amending the existing statutes through the following Bills:

- (i) The Chartered Accountants (Amendment) Bill, 2005
- (ii) The Cost & Works Accountants (Amendment) Bill, 2005
- (iii) The Company Secretaries (Amendment) Bill, 2005

**5.4.2** Both Houses of the Parliament have passed the Bills and the assent of the President is now awaited.

**5.4.3.** Some of the major changes proposed through the above Amendment Bills, are:

(i) A new structure to ensure expeditious administration of the disciplinary functions of the institutes, including an Appellate Authority to hear appeals against the decisions of disciplinary bodies.

(ii) A Quality Review Board, with representation from all stake holders, to review the quality of services provided by the professionals and make recommendations on improving the same.

(iii) Autonomy to the Institutes for fixing fees.

(iv) Permission to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner.

(v) Revamp of provisions to enable transparency in financial affairs of the Councils such as budgeting and auditing.

### **The Competition Act, 2002**

**5.5** The Competition Act provides for the establishment of a Competition Commission of India. The Competition Commission of India has accordingly been established on 14<sup>th</sup> October, 2003. On a writ petition challenging certain aspects of the constitution of the Competition Commission of India, the Supreme Court of India delivered its judgement in January, 2005. A decision has been taken to amend the Competition Act, 2002 through a Bill to be brought in the Parliament in the ensuing session.

### **The Societies Registration Act, 1860**

**5.6** The Societies Registration Act, enacted in 1860, provides for the registration of Literary, Scientific and Charitable Societies, so as to improve the legal status of such societies. The Act required that societies established for promotion of literature, science or fine arts, or in the diffusion of useful knowledge or for charitable purpose, register themselves by filing their Memorandum of Association with Officers specified in the Act. Most of the States have enacted amendments to the Societies Registration Act. The amendments also include registration of societies in the respective states by the Registrar of Societies or by other officers appointed by the State Government for the purpose.

### **The Indian Partnership Act, 1932**

**5.7** The Indian Partnership Act was enacted in 1932 with a view to define and amend the law relating to partnership apart from providing the nature of partnership, relating to partners with one another and with third parties. The Act also provides for registration of the firms with the Registrars appointed by the State Governments for the purpose. The Act makes separate provisions for registration of firms with the income tax officers concerned for the purpose of the Income Tax Act.

### **The Companies (Donation to National Funds) Act, 1951**

**5.8** The Companies (Donations to National Funds) Act was enacted in 1951. The Act enables any company, notwithstanding anything contained in the Companies Act or any other law, and also notwithstanding the contents of the Memorandum and Articles of Association of any Company, to make donations to any Fund established for a charitable purpose as approved by the Central Government. The Central Government has approved the Gandhi National Memorial Fund and the Sardar Vallabhbhai Patel National Memorial Fund as eligible to receive donations.