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**STANDING COMMITTEE
ON FINANCE
(2009-2010)**

FIFTEENTH LOK SABHA

MINISTRY OF CORPORATE AFFAIRS

**THE COST AND WORKS ACCOUNTANTS
(AMENDMENT) BILL, 2010**

TWENTY-FIFTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2010 / Bhadra, 1932 (Saka)

TWENTY-FIFTH REPORT
STANDING COMMITTEE ON FINANCE
(2009-2010)

(FIFTEENTH LOK SABHA)

MINISTRY OF CORPORATE AFFAIRS

THE COST AND WORKS ACCOUNTANTS
(AMENDMENT) BILL, 2010

Presented to Lok Sabha on 31 August, 2010

Laid in Rajya Sabha on 31 August, 2010



LOK SABHA SECRETARIAT
NEW DELHI

August, 2010/Bhadra, 1932 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON
FINANCE (2009-2010)

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Dr. Baliram (Lalganj)
3. Shri Sudip Bandyopadhyay
4. Shri C.M. Chang
5. Shri Harishchandra Chavan
6. Shri Bhakta Charan Das
7. Shri Gurudas Dasgupta
8. Shri Khagen Das
9. Shri Nishikant Dubey
10. Smt. Jayaprada
11. Shri Bhartruhari Mahtab
12. Shri Mangani Lal Mandal
13. Shri Rayapati Sambasiva Rao
14. Shri Magunta Sreenivasulu Reddy
15. Shri Y.S. Jagan Mohan Reddy
16. Shri N. Dharam Singh
17. Shri Sarvey Sathyanarayana
18. Shri Manicka Tagore
19. Dr. M. Thambidurai
20. Shri Anjankumar M. Yadav
21. Shri G.M. Siddeshwara*

*Nominated to this Committee *w.e.f.* 9.3.2010 *vice* Shri Gopinath Munde, MP.

Rajya Sabha

22. Shri Raashid Alvi
23. Dr. K.V.P. Ramachandra Rao
24. Vacant**
25. Shri S.S. Ahluwalia
26. Shri Moinul Hassan
27. Shri Mahendra Mohan
28. Vacant***
29. Dr. Mahendra Prasad
30. Shri Y. P. Trivedi
31. Shri Rajeev Chandrasekhar

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
2. Shri T.G. Chandrasekhar — *Additional Director*
3. Smt. B. Visala — *Deputy Secretary*
4. Shri T. Mathivanan — *Senior Executive Assistant*

**Shri Vijay Jawaharlal Darda, MP retired on 4 July, 2010

***Shri S. Anbalagan, MP retired on 29 June, 2010

INTRODUCTION

1. I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Twenty-Fifth Report on "The Cost and Works Accountants (Amendment) Bill, 2010".

2. The Cost and Works Accountants (Amendment) Bill, 2010, introduced in Rajya Sabha on 28 April, 2010, was referred to the Committee on 4 May, 2010 for examination and report thereon, by the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained background note and written information on various provisions contained in the aforesaid Bill from the Ministry of Corporate Affairs.

4. Written views/memorandum was received from the Institute of Cost and Works Accountants of India (ICWAI).

5. The Committee heard the views of the representatives of the ICWAI on 7 July, 2010. The Committee also took evidence of the representatives of the Ministry of Corporate Affairs on 4 August, 2010.

6. The Committee considered and adopted the Report at their sitting held on 26 August, 2010.

7. The Committee wish to express their thanks to the representatives of the Ministry of Corporate Affairs for appearing before the Committee and furnishing the material and information which were desired in connection with the examination of the Bill.

8. The Committee also wish to express their thanks to the Institute of Cost and Works Accountants of India (ICWAI) for furnishing written views/memorandum and appearing before the Committee for placing their views.

9. For facility of reference, the observations/recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI;
26 August, 2010
4 Bhadra, 1932 (Saka)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance.

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REPORT

I. INTRODUCTORY

The Institute of Cost and Works Accountants of India (ICWAI) is a statutory professional body established on May 28, 1959 under the Cost and Works Accountants Act, 1959 enacted by the Parliament of India to regulate the profession of Cost Accountants in India.

(i) The Cost and Works Accountants Act, 1959

2. The Cost and Works Accountants Act, 1959 governs the profession of Cost and Works Accountants. The said Act was amended in 2006 by the Cost and Works Accountants (Amendment) Act, 2006, *inter alia*, to enable the members of the Institute of Cost and Works Accountants of India to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner.

(ii) Cost and Works Accountants (Amendment) Bill, 2010

3. The Cost and Works Accountants (Amendment) Bill, 2010, was introduced in the Rajya Sabha on 28 April, 2010 and referred to the Standing Committee on Finance by the Speaker, Lok Sabha on 4 May, 2010 for examination and report thereon. The Bill *inter alia*, proposes to amend the Cost and Works Accountants Act, 1959 to:

- “(i) apply certain provisions of the Limited Liability Partnership Act, 2008 to the Cost and Works Accountants Act, 1959 in order to allow the members of the professional institute governed by the Cost and Works Accountants Act, 1959 to form the limited liability partnership and insert new definitions of “firm”, “partner”, “partnership” and “sole proprietorship” for the said purpose;
- (ii) amend the Cost and Works Accountants Act, 1959 on lines similar with the provisions of the Company Secretaries Act, 1980 so as to allow the professionals of the Institute of Cost and Works Accountants of India to form partnership with members of such other recognised professions;
- (iii) change the name of the “Institute of Cost and Works Accountants of India” to the “Institute of Cost and Management Accountants of India” and change the “Cost Accountants” to “Cost and Management Accountants”.

4. Clause 3 and clause 8 of the Bill seek to extend the benefits of the Limited Liability Partnership Act, 2008 to the firms of Cost and Works Accountants under the Cost and Works Accountants Act, 1959 and clauses 4,5,6,7 and 9 of the Bill seek to change the name of the “Institute of Cost and Works Accountants of India” to “Institute of Cost and Management Accountants of India”.

5. The Committee, apart from taking evidence of the representatives of the Ministry of Corporate Affairs in connection with the examination of the Bill, also heard the views of the representatives of the Institute of Cost and Works Accountants of India (ICWAI) on the provisions of the Bill. The Institute also furnished their written views/suggestions thereon for consideration of the Committee.

6. The background note on the amendment proposals of the Bill furnished to the Committee by the Ministry of Corporate Affairs *inter alia* states:

“Consultations with the institute have been held which have revealed that if definition of the firm is added to the CWA Act, it will enable the members of the CWA Institute to form LLPs and take benefits of the provisions of the LLP Act. This will enlarge the spectrum of the services provided by the Members of the CWA Institute. It will also ensure the competitiveness of the members of the professions. Apart from the inclusion of the definition of the firm, some allied definitions like partner, partnership and sole proprietorship would also be required in the Act and as such have been included in the proposed Bill.”

7. While expressing their agreement with the proposed amendments in the Bill, the Institute of Cost and Works Accountants of India, in their written memorandum and in the course of personal hearing before the Committee, *inter alia* emphasized on considering the amendments without any change.

II. PROPOSED CHANGE OF NAME OF THE INSTITUTE

8. The Committee have been informed that the Institute of Cost and Works Accountants of India has been requesting for change of name of the institute to Institute of Cost and Management Accountants of India in view of its work developing as a specialized discipline and due to the fact that over the years the teaching standards and syllabus of the Institute have achieved the global/international standards to qualify as Management Accountants and similar Institutes in many other countries are named as Institute of Cost and Management Accountants.

Definition of Cost Accountant

9. Section 2 of the Cost and Works Accountants Act, 1959 relates to Definitions and interpretation.

10. Section 2(1)(b) of the Act, reads as under :—

“Cost Accountant means a person who is a member of the Institute”.

11. Clause 2(zb) of the Companies Bill, 2009 relating to definition of cost accountant reads as under:—

“Cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act.”

12. Further, Section 2(2) of the Act, which prescribes the role and functions of cost accountants reads as under:

“Save as otherwise provided in this Act, a member of the Institute shall be deemed ‘to be in practice’ when, individually or in partnership with one or more members of the Institute in practice, he, in consideration of remuneration received or to be received,—

- (i) engages himself in the practice of cost and works accountancy; or
- (ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or
- (iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or
- (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice, and the words ‘to be in practice’, with their grammatical variations and cognate expressions, shall be construed accordingly.

Explanation: A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.”

13. As per the Institute of Chartered Accountants of India (ICAI), the term 'cost accountant' is defined as follows:—

“A cost accountant is a person who offers to perform or performs services involving the costing or pricing of goods and services or the preparation, verification or certification of cost accounting and related statements.”

14. In the Companies Bill, 2009, wherever the words 'Cost and Works Accountant' have been used with reference to the profession, it has been proposed by the Ministry to replace these words with 'cost accountant'. In this regard, when pointed out that the term 'Cost and Management Accountant' was not used in the Companies Bill, 2009, the Ministry, in a written reply, stated as under:—

“As per section 2(1)(b) of the CWA Act, 'Cost Accountant' means a person who is a member of the Institute of Cost and Works Accountants of India. Therefore, the same word 'cost accountant' has been used in the Companies Bill, 2009.”

15. Asked to provide the reasoning and the justification for changing the name of the Institute and that of the profession, the Ministry, in written reply thereto, submitted as under:—

“The Cost and Works Accountants Act was enacted in the year 1959. Though the name of the Act is Cost and Works Accountants Act, the word 'Works' has not been defined in the Act. In terms of section 2(1)(b) of the Act, the members of the Institute of Cost and Works Accountants of India are known as 'Cost Accountants' and not the Cost and Works Accountants. Apart from India no other country has nomenclature as Cost and Works Accountants. Initially the Cost and Works Accountancy was related to the area of cost calculation and cost reduction in factories. In the past few decades the service sector has undergone major changes. Cost and Works Accountancy is increasingly being used as a prudent management tool for cost reduction of inputs and thereby increasing the overall organizational efficiency. Though the area of work expertise is the same, nevertheless because of different nomenclature outside the country, the companies and organizations feel that Cost and Works Accountants are different from that of Cost and Management Accountants and hence have tough time in first explaining to the foreign organizations about their area of competence and then competing with their counterparts. Further, the word 'works' has changed globally by the word 'management’.”

16. Asked also whether the change in the nomenclature attached to the Institute would be appropriate to be carried out when there was no change in the mandate in terms of the provisions of the Act governing the Institute, the Ministry, in their post-evidence replies stated as under:

“The Institute of Cost and Works Accountants of India (ICWAI) was established in 1959. In the meantime the structure and method of conducting business has changed a lot. Their function now emphasizes areas of analysis and predictions instead of mere determination of product costs. Internationally, the nomenclature of ‘cost accounting’ has changed to be known as ‘cost and management accounting’. The Cost Accountants have started using new techniques for analyzing and giving feedback to the management for taking final decision. Various techniques are adopted by the Cost Accountants some of which are Activity Based Costing, Lean Costing, Process Costing Systems, Resource Consumption Accounting, Kaizen (Continuous Improvement) Costing etc. Role and function of the members of the Institute will remain the same. However, this will help in better job opportunities globally. If the services provided by the Cost Accountants are not understood globally, they would lag behind professionally as in present day scenario outsourcing of services is becoming more and more prevalent.”

17. Queried about the countries where the profession, ‘Cost and Management Accountants’ was governed under statutes passed of Parliaments, the Ministry, *inter-alia*, informed that while in United Kingdom, Pakistan, Bangladesh, Sri Lanka and Nigeria, the Management Accountants were working under the Acts of Parliament, in Canada and USA, the Institutes function as societies.

18. Asked to specify instances where the ICWAI could not negotiate or enter into agreements with sister organisations outside the country in view of the term ‘works’ in the name of the Institute, the ministry in reply, informed as under :—

“...It has been informed that the Institute could not enter into a Mutual Recognition Agreement (MRA) with CIMA UK, CMA Canada, ICMA Bangladesh, ICMA Pakistan or ICMA Sri Lanka due to the existing name of ICWAI. CMA Canada has MoU with ICMA Sri Lanka and also have arrangement with ICMA Bangladesh and ICMA Pakistan. ICWAI has been able to enter into MRA with only IMA USA till date, which is a body set up as a Society and is not under any Act of Parliament.

Countries like Bangladesh, Pakistan and Sri Lanka belonging to SAFA have expressed their reservations on the plea that their agreement or talks with Institutes like CMA Canada or CIMA may be jeopardized if they enter into MRA with a body which is not known as Cost and Management Accountants.”

19. The ICAI while opposing the proposal for change of name of ICWAI to ICMAI have, *inter-alia*, submitted in their written memorandum that: “Management Accounting is one such area which is common to all (*i.e.* ICAI, ICSI & ICWAI) and is not exclusive to any of the three professions. It is a position in an organization and not a function or discipline. It cannot be chartered or regulated through a legislation like a public accounting function. The members of one Institute cannot be allowed to use the designation of Management Accountants.” Asked to respond to the view expressed by ICAI opposing the change of name, the Ministry in reply, *inter-alia* stated as under:—

“.....There are several countries such as Canada, USA, UK, Bangladesh, Pakistan and Sri Lanka where the dual model of accounting institutes exists. In none of these countries confusion has been created by the existence of two titles and both CMAs and CAs co-exist in harmony rendering service to the society. The objections of ICAI to name change do not seem to carry conviction.”

20. Questioned whether the reasons for ICAI opposing the change in the name of ICWAI could be owing to the potential infringement of the interests of their members and whether measures have been taken by the Ministry to ensure that there was no consequential overlap of roles between the members of the two Institutes—ICAI and ICWAI, the Ministry, in this regard furnished the following reply:—

“There does not seem to be infringement between the interests of the members of ICAI and ICWAI. The syllabus of all the three Institutes have law papers but they do not practice in courts. Many of the papers in the three Institutes are common but Company Secretaries and Cost Accountants cannot practice the profession of financial auditing unless they become member of ICAI. Financial Accountants world over are known as ‘Chartered Accountants’ or ‘Certified Public Accountants’. The title ‘Chartered Accountant’ is on the lines of nomenclature in UK just before independence or passage of bill in 1949. Similarly, professionals of ICWAI could also use the nomenclature prevalent internationally.”

21. Questioned about the difference between the functions performed by a Chartered Accountant, Financial Accountant and Cost and Management Accountant, a representative of ICWAI made the following oral submission:—

“Coming to the fundamental differences between cost and management accounting and financial accounting, financial accounting is all about recording the historical transactions, applying certain standards, compiling the financial statement of profit and loss account and balance sheet out of it and any interpretation arising out of it. It is more of historic in nature whereas the cost and management accounting does not focus that much on the historical areas, but it is more predictive. If you take the case of business, it relates that business whether it is competitive; what steps we need to take in terms of future strategy to sustain; how one should be seeking profit goals; and how one should be seeking goals of satisfying the society. So, all these futuristic way of sustaining oneself with a business strategy with the governance requirements of what has been laid down in the law, that is, a futuristic approach is a part of the management accounting process. This is in simple terms the fundamental difference between financial accounting in which the Chartered Accountants are supposed to specialize and the cost and management accounting in which our body is supposed to specialize. This is the basic difference.”

22. On an earlier occasion, on the issue of change of name of the Institute, the Standing Committee on Finance in their 12th Report (14th Lok Sabha) on the Cost and Works Accountants (Amendment) Bill, 2003 made the following observation:—

“The Committee take note of the suggestion of ICWAI regarding the change in nomenclature of Institute of Cost and Works Accountants of India to the Institute of Cost and Management Accountants of India. The Committee are apprised with the following justification in favour of change in nomenclature:—

- Positive Average in Mutual Recognition Agreements (MRAs) in GATS.
- Preserving national interest in anti-dumping cases.
- Image building of Institute in international platform strengthening prospects of professional members.
- To promote the case of national interest in having the due share in trade of Management Accountancy services in the world in open competition.

The Committee also considered the Government's reply in this regard wherein they have stated that another sister organisation, ICAI is opposed to change of nomenclature as the use of word 'Management' would create confusion. However, the Committee note the Government are not averse to change in nomenclature. The Committee therefore, recommend that the nomenclature of Institute of Cost and Works Accountants of India should be changed to the Institute of Cost and Management Accountants of India."

23. While hearing the views of ICWAI on the provisions of the Bill, the Committee questioned whether there was any definition of 'Management Accounting' in any legislation, statutes or books. In this regard, a representative of the Institute, *inter alia*, made the following oral submission:—

"It is not legally defined, if you want a straight answer on that aspect. It is not legally defined. Globally, it is not legally defined. That is also there. I will submit to you that we brought out a study of the cost and management accounting practices globally comparing ten countries as to what is the education, what is the framework, what is the competencies, and we published that as a part of our global summit."

24. On being asked, how the Ministry of Corporate Affairs would define 'Management Accounting' and the role of 'Management Accountants', in reply, the Committee has been informed as follows:—

"In the Acts of the three Professional Institutes Chartered Accountants, Cost Accountants and Company Secretaries have been defined as the members of the respective Institutes. In the Acts of the three Professional Institutes Chartered Accountancy, Cost Accountancy and Company Secretaryship have not been defined. Perhaps there is no need to define the management accounting and the role of management accountants."

25. On the definition of 'Management Accountant' and scope of the profession in terms of Chartered Institute of Management Accountants (CIMA), London, the ICAI, in a written note stated as under:—

- "Management Accounting is the practical science of value creation within organizations in both the private and public sectors.
- It is the process of identification, measurement, accumulation, analysis, preparation, interpretation and communication of

information is used by management to plan, evaluate and control within an entity and to assure appropriate use of and accountability for its resources.

- It combines accounting, finance and management with the leading edge techniques needed to drive successful businesses. Management accountants operate in financial and non-financial roles throughout organizations and carry out all their training and experience requirements within business itself, providing them with a unique insight into how their organizations operate.

Scope of Management Accountant

- Design, implement and manage (automated) integrated systems that combine financial and non-financial data to provide insightful (electronic) reports to assist in managing performance and inform decision making.
- Design, implement and manage (automated) transaction processing activities, including financial accounting, payroll, purchasing and payments, often carried out in a shared service center.
- Design, improve, measure and manage end-to-end business processes and activities, often extending beyond the organizational boundaries, ensuring delivery of optimum efficiency and effectiveness in the use of resources.
- Work as an analyst; consultant; relationship, project and change manager in support of the business; and as a business partner integrated into divisional and operational units and processes throughout the organisation, bringing commercial and strategic insight, innovative thinking and a collaborative approach.
- Take responsibility for formulating and managing organizational policy, strategy and objectives, producing business plans, forecasts, scorecards, cost/benefit analysis and budgeting information as appropriate.
- Design and implement excellence in corporate governance, including risk management, internal audit and controls, company secretarial, corporate social responsibility and board and stakeholder reporting.
- Determine capital structure and acquire and manage funds. Carry out due diligence in mergers, acquisitions, business partnership and joint ventures”.

26. While hearing the views of ICWAI, the Committee desired to know whether any comparative study relating to the curriculum of the Institute with that of UK and other countries has been made. In response thereto, a representative of ICWAI *inter-alia* stated:—

“... We have done a very extensive mapping with CIMA, UK, and CMA, Canada. They have given concurrences that our syllabus favours very favorably in comparison with those management accounting courses and these letters were, in fact, a part of the processing requirement of the Government before they came to the conclusion that the name change could be granted.... Arising out of this mapping, we have entered into Memorandum of Understanding with two bodies globally. Like, for example, our members can automatically become the members of the Institute of Cost and Management Accounts of USA, no exam, nothing, it is straight membership.”

III. RECOMMENDATIONS

27. The Cost and Works Accountants (Amendment) Bill, 2010 seeks to amend the Cost and Works Accountants Act, 1959 for enabling the members of the Institute of Cost and Works Accountants of India (ICWAI) to form limited liability partnerships as defined by the Limited Liability Partnership (LLP) Act, 2008. The Committee express agreement with the amendment proposals of the Bill to that extent which *inter alia* seek to add in the Act, the definitions of ‘firm’, ‘partner’, ‘partnership’ and ‘sole proprietorship’ in line with the LLP Act, and recommend the same for consideration.

28. The Committee agree with the necessity expressed by the Ministry for ensuring that the existing term attached to the Institute (Institute of Cost and Works Accountants) does not stymie the professional growth of the members *vis-à-vis* their counterparts and associate professional groups at the international level. However, while the Committee had, on an earlier occasion in 2004, favoured the change in the name of the Institute and the designation attached to the profession, which has now been proposed in the Bill (re-termining the Institute and re-designating the profession as cost and management accountants) on the basis of the submissions made by the Ministry, the vehement opposition expressed by the ICAI to the proposal in particular, who also detailed the implications thereof has prompted a detailed rethink on the matter.

29. The term ‘works’ presently attached to the profession and included in the name of the Institute appears to give a misleading

understanding on the role and functions performed by the cost and works accountants at the international level. Also, the term 'works' has not been defined in the Act. However, neither the term 'management', nor 'cost and management accountant', which are proposed to replace the term 'works' in the name of the Institute and the designation attached to the profession are defined nor any concomitant changes proposed in the provisions of the Act pertaining to the role and functions of the members of the Institute. Upon considering the matter, the Committee are of the view that as proposed in the Companies Bill, 2009, it would be preferable to term the designation attached to the profession to 'cost accountant'; and re-name the Institute as the 'Institute of Cost Accountants'.

NEW DELHI;
26 August, 2010
4 Bhadra, 1932 (Saka)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance.

APPENDIX I

MINUTES OF THE TWENTY-FIRST SITTING OF THE STANDING COMMITTEE ON FINANCE

The Committee sat on Wednesday, the 7th July, 2010 from 1100 hrs. to 1615 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Shri Sudip Bandyopadhyay
3. Shri C.M. Chang
4. Shri Gurudas Dasgupta
5. Shri Khagen Das
6. Shri Nishikant Dubey
7. Shri Bhartruhari Mahtab
8. Shri Mangani Lal Mandal
9. Shri G. M. Siddeshwara
10. Shri Rayapati Sambasiva Rao
11. Shri N. Dharam Singh
12. Shri Manicka Tagore
13. Dr. M. Thambidurai

Rajya Sabha

14. Shri Raashid Alvi
15. Shri S. S. Ahluwalia
16. Shri Moinul Hassan
17. Shri Mahendra Mohan
18. Shri Y.P. Trivedi

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
2. Shri T. G. Chandrasekhar — *Additional Director*
3. Shri Ramkumar Suryanarayanan — *Deputy Secretary*
4. Smt. B. Visala — *Deputy Secretary*

Part I

(1100 to 1230 hrs.)

** ** ** **
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Part II

(1415 to 1430 hrs.)

** ** ** **
** ** ** **

Part III

(1430 to 1500 hrs.)

WITNESSES

Institute of Cost and Works Accountants of India (ICWAI)

1. Shri G.N. Venkataraman, President, ICWAI
2. Shri B. M. Sharma, Vice-President, ICWAI
3. Shri Chandra Wadhwa, Past President, ICWAI
4. Shri A.N. Raman, Central Council Member, ICWAI

The Committee heard the views of the representatives of the Institute of Cost and Works Accountants of India (ICWAI) in connection with examination of the Cost and Works Accountants (Amendment) Bill, 2010. The major issues discussed with the representatives included, transformation of 'Cost Accounting' to 'Cost and Management Accounting', distinction of the roles of a Chartered Accountant and a Cost and Management Accountant, the rationale of the proposal for the change of name of Institute of Cost and Works Accountants of India to Institute of Cost and Management Accountants of India etc. The Chairman directed the representatives to furnish written replies to the queries raised by Members at an early date.

The witnesses then withdrew.

A verbatim record of proceedings was kept.

Part IV

(1500 to 1530 hrs.)

** ** ** **
** ** ** **

The Committee then adjourned.

MINUTES OF THE TWENTY-THIRD SITTING OF THE
STANDING COMMITTEE ON FINANCE

The Committee sat on Wednesday, the 4th August, 2010 from
1600 hrs. to 1900 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Shri C.M. Chang
3. Shri Harishchandra Chavan
4. Shri Khagen Das
5. Shri Nishikant Dubey
6. Shri G. M. Siddeshwara
7. Shri Rayapati Sambasiva Rao
8. Shri Magunta Sreenivasulu Reddy
9. Shri N. Dharam Singh
10. Shri Sarvey Sathyanarayana
11. Dr. M. Thambidurai
12. Shri Anjankumar M. Yadav

Rajya Sabha

13. Shri Raashid Alvi
14. Shri S. S. Ahluwalia
15. Shri Moinul Hassan
16. Shri Mahendra Mohan
17. Dr. Mahendra Prasad
18. Shri Y.P. Trivedi
19. Shri Rajeev Chandrasekhar

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
2. Shri T. G. Chandrasekhar — *Additional Director*
3. Shri Ramkumar Suryanarayanan — *Deputy Secretary*
4. Smt. B. Visala — *Deputy Secretary*

MINUTES OF THE TWENTY-FIFTH SITTING OF THE
STANDING COMMITTEE ON FINANCE

The Committee sat on Thursday, the 26th August, 2010 from
1500 hrs. to 1600 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Shri C.M. Chang
3. Shri Harishchandra Chavan
4. Shri Khagen Das
5. Shri Bhartruhari Mahtab
6. Shri G. M. Siddeshwara
7. Shri Rayapati Sambasiva Rao
8. Shri Magunta Sreenivasulu Reddy
9. Shri Y.S. Jagan Mohan Reddy
10. Shri N. Dharam Singh

Rajya Sabha

11. Shri Moinul Hassan
12. Shri S. S. Ahluwalia

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
2. Shri T.G. Chandrasekhar — *Additional Director*
3. Shri Ramkumar Suryanarayanan — *Deputy Secretary*
4. Smt. B. Visala — *Deputy Secretary*

2. The Committee took up the following draft Reports for
consideration and adoption:-

- (i) Draft Report on the Companies Bill, 2009;
- (ii) Draft Report on the Coinage Bill, 2009;

- (iii) Draft Report on the Company Secretaries (Amendment) Bill, 2010;
- (iv) Draft Report on the Chartered Accountants (Amendment) Bill, 2010; and
- (v) Draft Report on the Cost and Works Accountants (Amendment) Bill, 2010.

3. The Committee adopted the draft reports at (i) with the modifications/amendments as shown in Annexure* and (ii) and (iv) above with minor modifications. The Committee adopted the remaining draft reports without any change.

4. The Committee authorized the Chairman to finalise the Reports in the light of the modifications suggested and present all the reports to Parliament in the current session.

The Committee adjourned at 1600 hours.

*Does not pertain to this Report.

APPENDIX II

As Introduced in the Rajya Sabha

Bill No. XXVI of 2010

THE COST AND WORKS ACCOUNTANTS (AMENDMENT) BILL, 2010

A

BILL

further to amend the Cost and Works Accountants Act, 1959.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

- | | |
|---|--|
| Short title and commencement. | 1. (1) This Act may be called the Cost and Works Accountants (Amendment) Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. |
| Substitution of references to certain expressions by certain other expressions. | 2. In the Cost and Works Accountants Act, 1959 (hereinafter referred to as the principal Act), throughout the Act and in the First Schedule and the Second Schedule to the said Act, for the words “cost accountant”, “cost accountants” and “cost accountancy” with their grammatical variations and cognate expressions, wherever they occur, the words “cost and management accountant”, “cost and management accountants” and “cost and management accountancy” shall respectively be substituted; |
| Amendment of section 2. | 3. In section 2 of the principal Act,—

(i) in sub-section (I),—

(I) after clause (e), the following clause shall be inserted, namely:—

‘(ea) “firm” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932, and includes,— |

23 of 1959.

9 of 1932.

6 of 2009. (i) the limited liability partnership as defined in clause (n) of sub-section (I) of section 2 of the Limited Liability Partnership Act, 2008; or

(ii) the sole proprietorship, registered with the Institute;’;

(II) in clause (f), for the words “Institute of Cost and Works Accountants of India”, the words “Institute of Cost and Management Accountants of India” shall be substituted;

(III) after clause (fa), the following clauses, shall be inserted, namely:—

9 of 1932. 6 of 2009. ‘(fb) “partner” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 or in clause (q) of sub-section (I) of section 2 of the Limited Liability Partnership Act, 2008, as the case may be;

(fc) “partnership” means—

9 of 1932. (A) a partnership as defined in section 4 of the Indian Partnership Act, 1932; or

(B) a limited liability partnership which has no company as its Partner’;

(IV) after clause (ia), the following clause shall be inserted, namely:—

‘(iaa) “sole proprietorship” means an individual who engages himself in the practice of cost and management accountancy or offers to perform services referred to in clauses (ii) to (iv) of sub-section (2);’

(ii) in sub-section (2),—

(a) after the words “in partnership with one or more members of the Institute in practice”, the words “or in partnership with members of such other recognised professions as may be prescribed” shall be inserted;

(b) in clause (i), for the words “cost and works accountancy”, the words “cost and management accountancy” shall be substituted;

(c) in clause (ii), for the words “certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice”, the words “certification or auditing of cost and management accounting and related statements or holds himself out to the public as a cost and management accountant in practice” shall be substituted;

(d) in clause (iii), for the words “cost accounting”, the words “cost and management accounting” shall be substituted.

Amendment
of section 3.

4. In section 3 of the principal Act, in sub-section (1), for the words “Institute of Cost and Works Accountants of India”, the words “Institute of Cost and Management Accountants of India” shall be substituted.

Amendment
of section 5.

5. In section 5 of the principal Act,—

(a) in sub-section (2),—

(i) for the letters “AICWA”, the letters “ACMA” shall be substituted;

(ii) for the words “Institute of Cost and Works Accountants”, the words “Institute of Cost and Management Accountants of India” shall be substituted;

(b) in sub-section (5),—

(i) for the letters “FICWA”, the letters “FCMA” shall be substituted;

(ii) for the words “Institute of Cost and Works Accountants”, the words “Institute of Cost and Management Accountants of India” shall be substituted.

6. In section 22A of the principal Act, for the words “Institute of Cost and Works Accountants of India”, the words “Institute of Cost and Management Accountants of India” shall be substituted.

Amendment
of section
22A.

7. In section 25 of the principal Act, in sub-section (1), in clause (iii), for the words “cost and works accountants”, the words “cost and management accountants” shall be substituted.

Amendment
of section
25.

8. In section 26 of the principal Act, in sub-section (1), the following *Explanation* shall be inserted, namely,—

Amendment
of section
26.

Explanation.—For the removal of doubts, it is hereby declared that the “company” shall include any limited liability partnership which has company as its partner for the purposes of this section.’

9. In the First Schedule to the principal Act, in Part I, in item (7), for the words “Institute of Cost Accountants of India”, the words “Institute of Cost and Management Accountants of India” shall be substituted.

Amendment
of First
Schedule.

10. In the Second Schedule to the principal Act, in Part I, in item (2), for the words “cost accounting”, the words “cost and management accounting” shall be substituted.

Amendment
of Second
Schedule.

STATEMENT OF OBJECTS AND REASONS

The Cost and Works Accountants Act, 1959 has been enacted to make provision for the regulation of the profession of the cost and works accountants. The said Act was amended in 2006 by the Cost and Works Accountants (Amendment) Act, 2006, *inter alia*, to enable the members of the Institute of Cost and Works Accountants of India to form multi-disciplinary firms and offer multi-professional services in a competitive and commercial manner.

2. Subsequently, the Limited Liability Partnership Act, 2008 has been enacted to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto. The limited liability partnership will be a separate legal entity, liable to the full extent of its assets, with the liability of the partners being limited to their agreed contribution in the limited liability partnership which may be of tangible or intangible nature or both tangible and intangible in nature.

3. It is proposed to extend the benefits of the Limited Liability Partnership Act, 2008 to the firms of cost and works accountants under the Cost and Works Accountants Act, 1959 and to amend the provisions of that Act.

4. The Cost and Works Accountants (Amendment) Bill, 2010, *inter alia*, proposes to amend the Cost and Works Accountants Act, 1959 to,—

- (i) apply certain provisions of the Limited Liability Partnership Act, 2008 to the Cost and Works Accountants Act, 1959 in order to allow the members of the professional institute governed by the Cost and Works Accountants Act, 1959 to form the limited liability partnership and insert new definitions of “firm”, “partner”, “partnership” and “sole proprietorship” for the said purpose;
- (ii) amend the Cost and Works Accountants Act, 1959 on lines similar with the provisions of the Company Secretaries Act, 1980 so as to allow the professionals of the Institute of Cost and Works Accountants of India to form partnership with members of such other recognised professions;

(iii) change the name of the “Institute of Cost and Works Accountants of India” to the “Institute of Cost and Management Accountants of India” and change the “cost accountants” to “cost and management accountants”.

5. The Bill seeks to achieve the above objectives.

New Delhi;
The 15th April, 2010.

SALMAN KHURSHID

FINANCIAL MEMORANDUM

Clause 3 and clause 8 of the Bill seeks to extend the benefits of the Limited Liability Partnership Act, 2008 to the firms of Cost and Works Accountants under the Cost and Works Accountants Act, 1959 and clauses 4, 5, 6 and 9 of the Bill seek to change the name of the “Institute of Cost and Works Accountants of India” to “Institute of Cost and Management Accountants of India”. The provisions of the Bill will not involve any expenditure of recurring or non-recurring nature from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend sub-section (2) of section 2 of the Cost and Works Accountants Act, 1959 to empower the Council of the Institute of Cost and Works Accountants of India to make regulations for recognition of other professions with whom members of the Institute can enter into partnership.

2. The matters in respect of which the said regulations may be made are matters of procedure and administrative detail, and it is not practicable to provide for them in the proposed Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE COST AND WORKS ACCOUNTANTS ACT, 1959
(23 OF 1959)

	*	*	*	*	*
Definitions and interpretations.	2. (I) In this Act, unless the context otherwise requires,—				
	(f) "Institute" means the Institute of Cost and Works Accountants of India constituted under this Act;				
	(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice, he, in consideration of remuneration received or to be received,—				
	(i) engages himself in the practice of cost and works accountancy; or				
	(ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or				
	(iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or				
	*	*	*	*	*

CHAPTER II

THE INSTITUTE OF COST AND WORKS ACCOUNTANTS

3. (1) All persons whose names are entered in the Register at the commencement of this Act, and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Cost and Works Accountants of India, and all such persons shall be known as members of the Institute.

Incorporation of the Institute.

* * * * *

5. (1) * * * * *

(2) Any person other than a person to whom the provisions of sub-section (3) apply shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and so long as his name remains so entered, shall be entitled to use the letters AICWA after his name to indicate that he is an associate member of the Institute of Cost and Works Accountants.

Fellows and Associates.

* * * * *

(5) Any person whose name is entered in the Register as fellow of the institute and so long as his name remains so entered, shall be entitled to use the letters FICWA after his name to indicate that he is a fellow of the Institute of Cost and Works Accountants.

* * * * *

22A. The Appellate Authority constituted under sub-section (1) of section 22A of the Chartered Accountants Act, 1949, shall be deemed to be the Appellate Authority for the

Constitution of Appellate Authority.

38 of 1949.

purposes of this Act subject to the modification that for clause (b) of said sub-section (1), the following clause had been substituted, namely:—

(b) The Central Government shall, by notification appoint two part-time members from amongst the persons who have been members of the Council of the Institute of Cost and Works Accountants of India for at least one full term and who is not a sitting member of the Council;

* * * * *

Penalty for using name of the Council, awarding degrees of cost accountancy, etc.

25. (1) Save as otherwise provided in this Act, no person shall—

* * * * *

(iii) seek to regulate in any manner whatsoever the profession of cost and works accountants.

* * * * *

Companies not to engage in cost accountancy.

26. (1) No company, whether incorporated in India or elsewhere, shall practise as cost accountants.

* * * * *

THE FIRST SCHEDULE

[See sections 21(3), 21A (3) and 22]

PART I

Professional misconduct in relation to cost accountants in practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he—

* * * * *

(7) advertises his professional attainments or services, or uses any designation or expressions other than cost accountant or professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Cost Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council:

Provided that a member in practice may advertise through a write up, setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council;

* * * * *

THE SECOND SCHEDULE

[See sections 21(3), 21B (3) and 22]

PART I

Professional misconduct in relation to cost accountants in practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he—

* * * * *

(2) certifies or submits in his name, or in the name of his firm, a report of an examination of cost accounting and related statements unless the examination of such statement has been made by him or by a partner or an employee in his firm or by another cost accountant in practice;

* * * * *

RAJYA SABHA

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further to amend the Cost and Works Accountants Act, 1959.

(Shri Salman Khurshid, Minister of Corporate Affairs)