



The Institute of Chartered Accountants of India

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

[Set up by an Act of Parliament]

STANDARD OPERATING PROCEDURE TO BE ADOPTED BY POLICE AND OTHER LAW ENFORCING AGENCIES FOR INVESTIGATION, SEARCH, SEIZURE, INTERROGATION, DETENTION AND ARREST OF CHARTERED ACCOUNTANTS

A. Preliminary Inquiry

Before proceeding against a Chartered Accountant, the investigator shall ascertain as to whether the person being proceeded against is a Member of the Institute of Chartered Accountants of India. For this purpose, verification of membership be done from the “Trace a Member” Link available at <https://www.icai.org/traceamember.html>

B. Investigation, Search & Seizure

- 1) All the communications for calling of documents, information etc. with the Chartered Accountants should be in writing.
- 2) Reasonable time should be given by the investigating agency to a Chartered Accountant to respond to its query(ies).
- 3) Only such documents as they relate to a particular client (for which investigation is being carried out) should be called for or seized from the Chartered Accountant, and not the papers relating to any other client.
- 4) The Investigating Officer should ensure that no Press or Media personnel are permitted to enter a premises that is being searched and further no disclosure of the name of the Chartered Accountant be made to Press till the completion of investigation.
- 5) During the Investigation, search and seizure, the Chartered Accountant should not be subject to any harassment, physical assault, abuse, misbehaviour or ill-treatment and the procedure established by law is followed at all times

- 6) All the necessary permissions required under law should be obtained and procedural safeguards should be complied with at the time of carrying out such investigation, search and seizure.
- 7) The provisions of law and directions of the Hon'ble Supreme Court as well as by the Hon'ble High Courts should invariably be complied with while carrying out such Investigation, search and seizure.

C. Interrogation, Detention & Arrest

- 1) Only in case of non-cooperation on the part of a Chartered Accountant in answering questions or producing documents available with him, he should be called to the office of the investigating agency for questioning. Sections 41 and 41A of Code of Criminal Procedure, 1973 should be complied with strictly as well with the judgment of the Hon'ble Supreme Court in *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273 and *Satender Kumar Antil v. CBI*, 2022 SCC OnLine SC 825.
- 2) It may be noted that time frame for retention of audit documentation under Standard of Audit (SA) 230 is only for a period of seven years from the date of audit report for the respective year. There is no mandate for Chartered Accountant to retain such documents beyond seven years. Personnel at the ground level should be sensitised of this provision while seeking documents from a Chartered Accountant.
- 3) Where the Chartered Accountant complies with the requirements of investigation and co-operates with the investigating agency(ies), no arrest should be made.
- 4) Where there is no prima facie evidence of misappropriation or fraud and where a Chartered Accountant has not been a beneficiary thereof, he should not be arrested.
- 5) The investigating agency must apply its mind as to whether there is *mens-rea* or collusion on the part of Chartered Accountant, before effecting arrest.
- 6) No FIR should be registered against a Chartered Accountants except with the prior permission of an officer not below the rank of Superintendent of Police.
- 7) During the questioning and interrogation, an Advocate of the choice of Chartered Accountant should be permitted to be present and the entire interrogation should be video recorded.

- 8) Investigating officials must maintain decorum, decency, etiquettes, moral and ethical behaviour that is required to be shown to a regulated professional.
- 9) The Chartered Accountant should never be subject to intimidation, threat, abusive behaviour or physical assault and due process of law be complied with at all times.

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