

# Art of Advocacy and Appearances

## Lesson 11

### KEY CONCEPTS

■ Oral Pleadings ■ Advocacy ■ Rule of Adverse Inference ■ Court Craft ■ Professional Etiquettes

### Learning Objectives

#### To understand:

- The Professional Etiquettes for a Professional
- The Court Craft from the perspective of a Company Secretary Professional
- The duties of a Practising Professional towards Tribunal/Court, Client and Opponent
- Principle for advocacy
- Pre-requisites for appearance
- The Etiquettes of Appearance for a Professional

### Lesson Outline

- Introduction
- Professional Etiquettes
- Court Craft
- Conduct & Etiquettes
- Important principles of Advocacy
- Advocacy Tips
- Appearance Etiquettes
- Arguments on Merits
- Pre-requisites for entering Appearance
- Dress Code
- Guidelines for Professional Dress of Company Secretaries
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings
- Other References (including websites/video links)

## INTRODUCTION

The corporate sector has recognized the role of the Company Secretaries as a compliance officer and as a nodal point of contact between the company and its shareholders, debenture holders, depositors, financial institutions and the Government. The Company Secretaries in practice are rendering value added services to corporate sector as independent professionals. Apart from this a Company Secretary can appear as an authorized representative before NCLT, Competition Commission of India (CCI), Securities Appellate Tribunal (SAT), Telecom Regulatory Authority of India (TRAI) and various other Tribunals. Therefore, it is of vital important to a Company Secretary to learn the Advocacy and Appearance Skills and practice these during the discharge of duties during the assignments.

## PROFESSIONAL ETIQUETTES

Etiquette is the fine art of behaving in front of others. It is a set of practices and forms which are followed in a wide variety of situations. Many people consider it to be a branch of decorum, or general social behavior. Each society has its own distinct etiquette, and various cultures within a society also have their own rules and social norms.

In today's world of business, professionals need to know how to conduct themselves within the business world. One of the best ways to do so is to practice good professional etiquette. Practicing good professional etiquette is necessary for professional success in the emerging business scenario which is constantly changing and making the market place more competitive and contestable. Corporates look for those candidates who possess manners, a professional look and demeanor, and the ability to converse appropriately with business colleagues and clients. Though your academic knowledge and skills may be spectacular, but not knowing proper etiquette required to be successful in the professional career could be a roadblock preventing you to achieve success in the professional life and business relationships. Good professional etiquette indicates to potential employers that you are a mature, responsible adult who can aptly represent their company.

Dealing a client with confidence, acting appropriately at business interactions and knowing the proper table manners at a business dinner are just some of the necessary skills today's professionals must have in an increasingly competitive environment, and that will leave a lasting impression – good or bad. Some manners and behaviour remain constant. Nonetheless, other etiquette moments require you to conduct yourself differently than you do when you are with professional colleagues or clients at any business meeting/get-together. It is in these moments that you need to understand the particulars of etiquette. Being corporate professionals, you must practice some basic etiquette tips that would help you to go up the ladder of success in the workplace. These include Dressing Etiquette; Introduction and Greeting Etiquettes; Conversation Etiquette; Communication Etiquettes; Invitation Etiquette and Dining Etiquettes etc.

### Dressing Etiquette

With every organization program comes the inevitable question: What do I wear? Knowing what to wear, or how to wear something, is key to looking great in any event.

- Always wear neat and nicely pressed formal clothes. Choose corporate shades while you are picking up clothes for your office wear.
- Ties for men should compliment.
- Women should avoid wearing exposing dresses and opt for little but natural make-ups. Heels should be of appropriate or modest height.
- Men need to keep their hair (including facial hair) neatly trimmed and set.
- Always polish your shoes.

- Keep your nails clean.
- Wear clothes which you are comfortable in and can carry well. This is very important while you are in a business meeting or client presentation.

### Etiquette When Attending Hearings

All members shall endeavour to adhere to the following:

- a) Do not enter the court room chewing gum or toffee, beetle-leaf, tobacco, gutkha, mouth freshener, pan-masala, or any eatables.
- b) Do not enter the court room in an inebriated state.
- c) Switch off all mobile and other beeping devices or put them on silent mode (non-vibrating) and keep them inside the bag or pocket before entering the courtroom as these may disrupt the proceedings.
- d) Enter the courtroom or office of the Presiding Authority silently and bow/greet to the Presiding Authority as a sign of respect before proceeding to your seat.
- e) Silence must be observed at all times during the hearing.
- f) Ensure that all loose sheets of papers are securely fastened, indexed and tagged so as not to waste the time of the court in locating the documents.
- g) Ensure that all documents needed for the hearing are available with you, including copies already submitted in advance with the authority.
- h) Behave in a polite and courteous manner with all present in the court room and maintain decorum.
- i) Do not attempt to capture photographs or audio/video record during the proceedings.
- j) All efforts must be made to observe the above etiquettes as well, even while attending virtual hearing. Further for virtual hearing the member shall ensure that the environment from which the member is appearing (virtually) is in line with the prescribed directions and/or recommended standards for such virtual appearance.

### Handshake Etiquette

Etiquette begins with meeting and greeting. A handshake is a big part of making a positive first impression. A firm shake is an indication of being confident and assertive. The following basic rules will help you get ahead in the workplace:

- Always rise when introducing or being introduced to someone.
- Shake hands with your right hand.
- Shake hands firmly (but not with a bone crushing or fish-limp grip), and with only one squeeze.
- Hold it for a few seconds (only as long as it takes to greet the person), and pump up and down only once or twice.
- Make eye contact while shaking hands.

### Communication Etiquettes

- Always speak politely. Listen to others attentively. A good listener is always dear to every client.
- While speaking over telephones, always greet the other person while starting and ending the call.
- Speak only when the other person has finished talking instead of interrupting in between.

- Show interest in what other people are doing and make others feel good.
- Stand about an arm's length away while talking to others.
- Question another person in a friendly, not prying, manner.
- Make eye contact when talking to others.
- Be polite.
- Avoid foul language, unkind statements, and gossip.
- Keep your conversations short and to the point.
- Maintain your sobriety and politeness even if the client speaks something offensive or rude and avoid replying back in harsh tone/words.

### Invitation Etiquette

How you respond to an invitation says volumes about your social skills. It reflects negatively on your manners if your response (or lack of response) to an invitation costs time or money for your host.

- Reply by the date given in the invitation, so that the host or hostess knows what kind of arrangements to make for the event, food is not wasted, and unnecessary expense is eliminated.
- If an RSVP card is not included, respond by calling or sending a brief note.
- If you cancel after initially accepting an invitation, phone your regrets as soon as possible.
- Send a note of regret following the phone conversation.
- Don't ask for permission to bring a guest unless the invitation states.
- Arrive at the event promptly, but not too early.
- Mingle and converse with the other guests.
- Don't overstay your welcome.
- Extend your thanks as you leave.

That apart, you must pay special attention to the following general etiquettes: Always be punctual at your workplace; During a meeting, turn off your mobile phone or put it on silent mode. It is considered extremely impolite to allow a mobile phone to ring during a meeting and take a call while sitting in a meeting. In case it is a must to receive a phone call, it is best to discreetly excuse yourself from the meeting and take it out into the hall or private area; When in a meeting room, always stand up to greet the seniors if they arrive after you; Try to ignore and overlook funny or embarrassing sounds when in a meeting or official conversation; If you have forgotten somebody's name ask him/her politely saying that you are sorry that you cannot remember the name; Always keep a comfortable distance while conversing with others; Avoid standing or sitting too close to the other person. An arm's length would be ideal to maintain the comfort zone.

### COURT CRAFT

Practicing these etiquettes in your professional life, will make a great impact on everyone you are associated with. You must always be conscious that your mannerisms reflect on your professionalism and your company. Company Secretaries act as an authorized representative before various Tribunals/Quasi-judicial bodies. It is necessary for them to learn art of advocacy or court craft for effective delivery of results to their clients when they act as an authorized representative before any tribunal or quasi-judicial body.

For winning a case, art of advocacy is important which in essence means to convince the judge and others that my position in the case is the proper interpretation. Advocacy/court craft is learned when we enter the practising side of the profession. The aim of advocacy is to make judge prefer your version of the truth.

Apart from the legal side of the profession, advocacy is often useful and sometimes vital, in client interviewing, in negotiation and in meetings, client seminars and public lectures. It is a valuable and lifelong skill worth mastering.

Technical and legal knowledge about the area in which Company Secretaries are acting is essential. Better their knowledge, the better their advocacy skills and the greater their impact. Good advocacy or negotiating skills will not compensate for lack of appropriate knowledge.

### Preparatory points

There are certain basic preparatory points which a Company Secretary should bear in mind when contacted by a client.

- Take minute facts from the client;
- Lend your complete ears to all that client has to say;
- Put questions to the client while taking facts so that correct/relevant facts can be known;
- Convey to the client about exact legal position in context of relief sought by the client;
- Give correct picture of judicial view to the problem posed by the client.

### Drafting of Pleadings

Pleadings could be both written and oral. Mastering both the kinds of pleadings is must for effective delivery of results to the clients. Some of the important factors which may be borne in mind while making written pleadings are as under:

- Quote relevant provisions in the petition and excerpts of observations made by the Courts relevant to the point;
- Draft prayers for interim relief in such a manner which though appears to be innocuous but satisfy your requirements;
- Do not suppress facts;
- Highlight material facts, legal provisions and Court decisions, if any;
- State important points at the outset together with reference to relevant provisions/judgements.

#### If you are opponent

- File your reply to the petition at the earliest opportunity;
- Take all possible preliminary contentions together with reference to relevant law point and judgements;
- Submit your reply to each paragraph of the petition.

#### If you are for the petitioner

- File your rejoinder upon receiving the reply at the earliest opportunity and this is to be done on the permission of the concerned Court / Tribunal;
- Meet clearly with the specific points raised by the opponent in the reply affidavit.

### Oral Pleadings

Effective oral pleadings are relevant both at the stage of preparation of the case before actual presentation and also at the stage of actual presenting a case before NCLT or other tribunals. Following aspects could be relevant at both these stages:

- Preparation before presentation of the case;
- Carefully read your petition, provisions of law and judgements;
- Note down relevant points on a separate sheet of paper together with relevant pages of the compilation;
- Keep copies of judgements to be relied ready for the Court and for your opponent(s).

### While Presenting Your Case

- Submit a list of citations to the Court Master before opening of case;
- Start your address to the Court / Tribunal with humble note;
- Refer to the order sought to be challenged or reliefs sought to be prayed;
- State brief facts;
- Formulate issues/points, categorise them and address them one by one;
- Take each point, state relevant facts, provisions of law and relevant binding decisions;
- Hand over xerox copies of binding decisions to the Court Master while placing reliance;
- Refer to relevant pages of the compilation, provisions of law and judgements;
- Complete all points slowly but firmly;
- Conclude your arguments by reiterating your points in brief;
- Permit the opponent counsel uninterruptedly. However, if facts are being completely twisted, interrupt depending upon the relevant circumstances and that too only with the permission of the Court / Tribunal;
- Take instructions from client in advance with respect to alternative reliefs.

### As Regards Advocacy

Advocacy is the presentation of logical facts of any dispute in a right perspective. It employs the noblest faculties of the human mind by differentiating between right and wrong, just and unjust, equitable and inequitable. This could be done only by applying the knowledge of law acquired by extensive and intensive learning. Company Secretaries should be able to formulate and present a coherent submission based upon facts, general principles and legal authority in a structured, concise and persuasive manner. They should understand the crucial importance of preparation and the best way to undertake it and be able to demonstrate an understanding of the basic skills in the presentation of cases before the tribunals. They should be able to:

- Identify the client's goals and should continue to enjoy the confidence of his client;
- Identify and analyse factual material;
- Identify the legal context in which the factual issue arises;
- Relate the central legal and factual issues to each other;
- State in summary from the strengths and weaknesses of the case from each party's perspective;
- Develop a presentation strategy;
- Outline the facts in simple narrative form;

- Structure and present in simple form the legal framework of the case;
- Structure the submission as a series of propositions based on the evidence;
- Identify, analyse and assess the specific communication skills and techniques;
- Demonstrate an understanding of the purpose, techniques and tactics of examination, cross-examination and re-examination to adduce, rebut and clarify evidence;
- Demonstrate an understanding of the professional ethics, etiquette and conventions of advocacy.

## CONDUCT AND ETIQUETTE

### Duty to the Court/Tribunal

- (i) A Company Secretary shall, during the presentation of his case and while otherwise acting before a Court/ Tribunal, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.
- (ii) A Company Secretary shall maintain towards the Courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community and legal system.
- (iii) A Company Secretary shall not influence the decision of a Court by any illegal or improper means. Private communications with the judge relating to a pending case are forbidden.
- (iv) A Company Secretary shall use his best efforts to restrain and prevent his client from resorting to sharp and unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the Company Secretary himself ought not to do. A Company Secretary shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouthpiece of the client, and shall exercise his own judgment in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Court.
- (v) A Company Secretary shall not enter appearance, act, plead or practice in any way before a Court/ Tribunal or any other Authority, if the sole or any member thereof is related to the Company Secretary.
- (vi) A Company Secretary shall not appear in or before any Court or Tribunal or any other Authority for or against an organization or an institution, society or corporation, if he is a member of the Executive Committee of such organization or institution or society or corporation.
- (vii) A Company Secretary should not act or plead in any matter in which he is himself pecuniarily interested.

### Duty to Client

- (i) A Company Secretary shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client.
- (ii) A Company Secretary shall not accept a brief or appear in a case in which he has reason to believe that he will be a witness and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear if he can retire without jeopardizing his client's interest.
- (iii) A Company Secretary shall at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosures to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgment in either him or continuing the engagement.
- (iv) It shall be the duty of a Company Secretary to fearlessly uphold the interest of his client by all fair and

honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.

- (v) A Company Secretary shall not at any time, be a party to fomenting of litigation. A Company Secretary shall not act on the instructions of any person other than his client or his authorized agent.
- (vi) A Company Secretary shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.
- (vii) Avoid the interruption to the Client.
- (viii) To be prompt, Orderly and systematic.
- (ix) Advice, inform and arrange the interim relief for the protection of subject matter of the case.
- (x) Ensure that the execution of the decision has been made.

### Duty to Opponent

- (i) A Company Secretary shall not in any way communicate or negotiate upon the subject-matter of controversy with any party represented by an Advocate except through that Advocate.
- (ii) A Company Secretary shall do his best to carry out the legitimate promise/ promises, made to the opposite- party.

### IMPORTANT PRINCIPLES OF ADVOCACY

Some of the important principles of advocacy a Company Secretary should observe include:

1. Act in the best interest of the client;
2. Act in accordance with the client's wishes and instructions;
3. Keep the client properly informed;
4. Carry out instructions with diligence and competence;
5. Act impartially and offer frank, independent advice;
6. Maintain client confidentiality.
7. Keep a track of the status of the case and take follow up whenever necessary. This can ensure the timely completion of the case.
8. Understand the requirements of the procedure before the tribunal.

### ADVOCACY TIPS

Some of the tips given by legal experts which professionals like Company Secretaries should bear in mind while appearing before Tribunals or other quasi-judicial bodies are given herein below. They say while pleading, a judge in your pleadings looks for:

- (i) **Clarity:** The judge's time is limited, so make the most of it.
- (ii) **Credibility:** The judge needs to believe that what you are saying is true and that you are on the right side.
- (iii) **Demeanour:** We do not have a phrase "hearing is believing". Humans which includes the human judge, is far more video than audio. The way we collect most of our information is through our eyesight.

- (iv) **Eye contact:** While pleading, maintain eye contact with your judge.
- (v) **Voice modulation:** Voice modulation is equally important. Modulating your voice allows you to emphasize the points you want to emphasize. Be very careful about raising your voice. Use your anger strategically. But use is rarely. Always be in control of it.
- (vi) **Confident temperament and precise communication:** The appearance of a confident company secretary can be helpful for him to present his case. Precise communication will make the judges to listen carefully.
- (vii) **Psychology:** Understand judge's psychology as your job is to make the judge prefer your version of the truth.
- (viii) **Be likeable:** At least be more likeable than your opponent. If you can convert an unfamiliar Bench into a group of people who are sympathetic to you personally, you perform a wonderful service to your client.
- (ix) **Learn to listen:** *Entertain your judge.* Humour will often bail you out of a tough spot.
- (x) **Knowledge and Preparation:** Knowledge of the subject matter and proper preparation of the case is of utmost importance and comes before any other skill a professional can have for winning a case.
- (xi) **Order sheet:** Order sheet are maintained in every proceedings by the Court Master and shall contain all orders passed by the Appellate Tribunal from time to time. A Professional should keep track of the Order Sheets and try to obtain if allowed by the rules pertaining to the proceedings.

## APPEARANCE ETIQUETTES

### Arguments on Preliminary Submissions

Preliminary submissions should primarily confine to the true and correct facts regarding the issue involved and which have been suppressed or not disclosed by the other side in the pleadings. Additionally the provisions of law or legal objections relevant and applicable to the issues involved in the matter should also be mentioned so as to demonstrate that the relief being claimed by the opponent is not eligible to be granted and/or that the relief being claimed by the party being represented by a lawyer/authorized representative should ordinarily be allowed as per those provisions of law. Before incorporating such facts and/or provisions of law in the write-up, an authorized representative should be thorough with the provisions of law and interpretation, thereof, based upon relevant judgments so as to ensure that the submissions being made on behalf of the client are accepted and upheld by the Presiding Officer/Court/Tribunal as the case may be. Thus, for eg., if a claim being opposed by an authorized representative is evidently barred by limitation, such an objection should be taken in the preliminary submissions/objections. Such type of submissions/objections should be duly supported by law on the point or by relevant case law/judgments.

### Arguments on Merits

Such arguments as relate to the facts pleaded by the parties are termed as arguments on merits. While addressing arguments on merits, an authorized representative should carefully point out the pleadings of the parties and the relevant evidence in support thereof, lead by the parties, both oral as well as documentary. An authorized representative should ensure that all or any contradiction in the pleadings of the opponent and the evidence in support of such pleadings are duly pointed out while submitting his/her arguments. Thus, where an agreement/contract of service is pleaded and there is no evidence either oral or documentary on record in support of such an agreement/contract, it should be specifically pointed out that the opponent has failed to prove/establish that such an agreement/contract actually exists or that the same had actually been executed at all. Similarly, where notice is alleged to have been served prior to filing of the case and there is no documentary evidence like postal receipt/courier receipt placed on record by the opponent, it should be pointed out that the

opponent has failed to establish that the notice had actually been served. Furthermore, the relevant facts and/or contradictions extracted from the opponent or his/her witness during the course of cross-examination and relating to the factual issues involved in the matter, should be highlighted so as to draw attention of the Court/Tribunal towards such facts/contradictions.

### Closing Argument

Closing arguments are very important stage for a hearing. It requires a professional to present before the tribunal what he intends a tribunal to decide. Effective closing arguments can turn the case around in case of doubts in the minds of the members of the tribunal. Therefore, closing arguments should be made with extra caution and preparation.

### Other Important Points

1. Make a note of all important points and ensure the coverage of all the points during the hearing. Additional notes of the arguments of the other Party's professional can also be supportive.
2. Keep sufficient copies of the material you want the tribunal to reply such as copy of the Act, Cases, reference books etc.
3. Understand the intention of the client for filling the case and act according to the extent possible.
4. Take the advice from the client with respect to all the possible reliefs he may agree.
5. Keep the record of all the hearings he/she is handling and maintain a diary so that no case hearing is missed by mistake.

## PRE-REQUISITES FOR ENTERING APPEARANCE

### Legal Pleadings/Written Submissions

As already pointed out above, legal pleadings/submissions should be taken under the heading "preliminary submissions/objections". While taking such plea one should ensure that the legal provisions and/or interpretation, thereof, is very clear and directly applicable to the issues involved in the matter. Thus, where an unregistered agreement/contract forms the basis of a claim set up by a party and such an agreement/ contract compulsorily requires registration under Section 17 of the Registration Act, a legal plea should be taken that since the agreement/contract is not a registered document, the same could not be looked into or relied upon by the Court for the reasons that the same cannot be read in evidence. Similarly, all other legal submissions which go to the root of the controversy and which are sufficient as well as material for adjudication of the issues involved, should be taken in opposition to the claims put forth by the opponent. Some illustrations are as under:

- (i) Suit is not maintainable for want of statutory notice etc.
- (ii) Complaint does not disclose cause of action.
- (iii) Plaintiff has no right to sue.
- (iv) Suit barred by principles of res-judicata.
- (v) Suit barred by principles of waiver, estoppel, acquiescence.
- (vi) Suit is barred by special enactment.
- (vii) Court has no jurisdiction.
- (viii) Suit is barred by limitation.
- (ix) Suit is premature, and so on.

Some of these are known technically as 'special defences'. In a suit based on contract, defendant may admit that he made the contract, but may avoid the effect of admission by pleading performance, fraud, release, limitation etc.

### Rule of Adverse Inference

No evidence is required of matters which are, either formally admitted for the purposes of the trial, in civil cases, by the pleadings, by answer to interrogatories, by agreement or otherwise and in criminal cases, as regards proof of those documents admitted under Section 294 of the Code of Criminal Procedure, 1973.

It is incumbent upon a party in possession of best evidence on the issue involved, to produce such evidence and if such party fails to produce the same, an adverse inference is liable to be drawn against such party. The Court will be justified in drawing an adverse inference against that party. [*Ms. Shefali Bhargava v. Indraprastha Apollo Hospital & Anr.*, 2003 NCJ 787 (NC)].

It is equally incumbent upon a party to produce evidence of some expert where the issue involved is a complex or difficult one as for instance, issues pertaining to engineering, medical, technology or science etc. Since the court cannot constitute itself into an expert body and contradict the claim/proposition on record unless there is something contrary on the record by way of expert opinion or there is any significantly acclaimed publication or treatise on which reliance could be based. [*Dr. Harkanwaljit Singh Saini v. Gurbax Singh & Anr.*, 2003 NCJ 800 (NC)].

### Understanding the Jurisdiction of the Tribunal

A case filled without understanding the jurisdiction of the tribunal can only waste the time of a Practising company secretary, client and also the tribunal. Therefore, it is of paramount importance to understand the jurisdiction of the tribunal before filling any matter. Filling a case with the tribunal not having jurisdiction can also degrade the value of a professional before the client and he may perceive the professional as less knowledgeable professional. It can impact the future opportunities that can come to a Professional.

### Prepare Approach/Plan

A Professional should prepare an outline plan for which he should further strive. The plan can help a professional move in a direction. After a plan, it will be easy for a professional to take the case forward effectively.

### DRESS CODE

In professional life it is important to look presentable because personal appearance counts. How you look can be a major factor in how you are perceived by others. How you look, talk, act and work determines whether you are a professional or an amateur. The way you dress, speaks volumes about who you are as a person and as a professional. Whenever you enter a room for the first time, it takes only a few seconds for people you have never met to form perceptions about you and your abilities. Your clothes and body language always speak first. So it is important that your image gives people the right impression.

Some of the perceptions people can form solely from your appearance are: your professionalism; your level of sophistication; your intelligence and your credibility. Whether these perceptions are real or imagined, they underscore how your appearance instantly influences the opinions of strangers, peers, and superiors. Being well dressed in a corporate setting can influence not just perceptions, but also promotions.

A dress code is a set of rules governing a certain combination of clothing. Apart from the legal profession, professional dress code standards are established in major business organizations and these have become more relaxed in recent decades. Dress codes vary greatly from company to company, as different working environments demand different styles of attire. Even within companies, dress codes can vary among positions.

Getting dressed for work is to project a professional and competent image. It has been observed that the professionals who do not take the time to maintain a professional appearance or those who have never learned how to dress properly for their chosen field of work, are not being taken seriously by co-workers and present the image of not being able to perform satisfactorily on the job.

## ICSI (GUIDELINES FOR ATTIRE AND CONDUCT OF COMPANY SECRETARIES), 2020

### Introduction

- (i) Attire reflects personality, lifestyle and standardization of a professional more so when he appears before various statutory bodies, authorities, adjudicators, government agencies/bodies and quasi-judicial forums.
- (ii) The recognition of Company Secretaries to appear before statutory bodies, authorities, adjudicators, government agencies/bodies and quasi-judicial bodies on behalf of their clients is a privilege coupled with conditions. One such condition is to dress appropriately, support the Forum's authority and dignity and maintain decorum.
- (iii) The dressing requirements for appearing before statutory bodies and quasi-judicial bodies are unwritten. A Company Secretary appearing before any statutory body or quasi-judicial body on behalf of his clients stands there in his capacity as a Professional. He is duty bound to respectfully support the presiding authorities not just by following the rules and procedures but also by demonstrating the highest standards of professional etiquettes as expected from a company secretary.

### Objective

The objective of issuing these Guidelines is to: -

- a) Provide standards of etiquette and decorum for appearing before courts, quasijudicial bodies, statutory authorities and other government agencies/bodies, including but not limited to ROC, OL, RD, NCLT, NCLAT, NGT, RBI, SEBI, CCI, Income Tax Department, GST Department, Stock Exchanges or any other Offices of Regulators/Registrars under different laws.
- b) Ensure to demonstrate professional behaviour and respect towards the authority and to maintain dignity of the profession of Company Secretaries.
- c) Guide Company Secretaries as to which attire is considered unsuitable, unconventional or inappropriate for them.
- d) Project a professional image amongst the stakeholders including Regulators and build a brand for the profession of Company Secretaries.

### Applicability

- (i) These Guidelines shall apply to Company Secretaries whether in Employment or in Practice appearing before the quasi-judicial bodies, statutory authorities and other government agencies/bodies including but not limited to ROC, OL, RD, NCLT, NCLAT, NGT, RBI, SEBI, CCI, Income Tax Department, GST Department, Stock Exchanges and any other Offices of Regulators/Registrars under different laws on behalf of their employer/ clients.
- (ii) Endeavour shall be made by Company Secretary in Practice to follow these guidelines for appearing before all clients as well.

### Dress Code

- A. The dress code to be adhered to by the Company Secretaries in Practice is as under:

#### A.1 For Male Members:

- a. Navy Blue Suit (Coat & Trouser, plain/solid coloured)

OR

Navy Blue Blazer over a sober plain/solid coloured Trouser preferably light grey. The fabric of the coat/blazer may be as per the weather.

- b. Navy Blue Neck Tie preferably with CS logo or any other tie with CS Logo.
- c. Buttoned up Coat
- d. White full sleeve collared Shirt
- e. Formal Shoes
- f. The socks may be of any plain/solid colour preferably matching with the colour of Trousers.

#### **A.2 For Female Members:**

- a. Navy Blue suit (Coat & Trouser, plain/solid coloured), with White full sleeve collared Shirt
- b. Saree /suit of sober colour with Navy Blue Blazer
- c. Formal footwear
- d. Scarf with CS Logo is recommended to be worn.

#### **B. Restricted items of attire**

B.1 The following items of attire shall not be worn in any case:

- a. Clothes that are too revealing or not fitting well.
- b. Short or skirts or half sleeves shirt.
- c. Sunglasses, Caps, Hats, mufflers.
- d. Hand Gloves.
- e. Face Masks and veils (except when worn for medical reasons/precautions).
- f. Sports shoes, slippers, casual footwear.
- g. Singlets, T-shirts, Jeans.
- h. Medallions, except where the professional has a constitutional right thereto.
- i. Medical equipment which would force the trial judge to either grant a continuance or influence the judge in any manner prejudicial to the administration of justice.
- j. Earphones, headphones and any other electronic communication equipment.

#### **C. Exceptions**

C.1 The intent of these guidelines is not to impose rigid standards not directly related to judicial administration and accordingly, exceptions are given for the following:

- a. Turbans, may be worn for religious, cosmetic or other legitimate purposes in plain/solid sober colours.
- b. Head gear, adhering to good sense of community standards and having a balance with professional's attire may be worn.

- c. Hearing aids, so that a person with hearing loss can listen, communicate, and participate more fully in daily activities.

For the Members in Employment the abovementioned para shall apply mutatis mutandis with an exception that where the member in employment is covered under the dress code prescribed by the employer, the same shall apply.

Wherever the quasi-judicial bodies, statutory authorities and other government agencies/bodies referred above have defined a particular dress code for appearing before them, in the courtroom / or otherwise, the same shall be adhered to.

### Etiquettes while Attending Virtual Hearings

All members shall endeavour to adhere to the following additionally, in case of virtual hearing or E-hearing:

- a) Before the hearing, familiarize yourself with your microphone, camera and speakers, test your technology from the place where you plan to participate in the hearing.
- b) Dress code as mentioned in above paras should be adhered too.
- c) Excessive physical movements should be avoided.
- d) Computer or camera angle should be placed in such manner that is straight at or a bit above eye level.
- e) Overly bright or extremely dark background should be avoided as they do not translate well on camera. Additionally, background should be clear and uncluttered.
- f) While using spectacles/glasses they should have non-reflective coating.
- g) Use an external microphone, a headset or earbuds with a built-in microphone, where possible-this supports good audio quality and helps other participants to hear you clearly. Mute your microphone when not speaking. This reduces echo and background noise.
- h) Preferably, mute notifications on your computer/device.

### Consequences of Violation

Any non-compliance with these Guidelines shall render the member liable for action under the Company Secretaries Act, 1980 read with First Schedule and Second Schedule to the Company Secretaries Act, 1980.

#### LESSON ROUND-UP

- The corporate sector has recognized the role of the Company Secretaries as a compliance officer and as a nodal point of contact between the company and its shareholders, debenture holders, depositors, financial institutions and the Government. The Company Secretaries in practice are rendering value added services to corporate sector as independent professionals.
- Effective oral pleadings are relevant both at the stage of preparation of the case before actual presentation and also at the stage of actual presenting a case before NCLT or other tribunals.
- Preliminary submissions should primarily confine to the true and correct facts regarding the issue involved and which have been suppressed or not disclosed by the other side in the pleadings.
- Practicing good professional etiquette is necessary for professional success in the emerging business scenario which is constantly changing and making the market place more competitive and contestable.

- To enhance the visibility and brand building of the profession and ensuring uniformity, the Council of the Institute of Company Secretaries of India has prescribed guidelines for professional dress for members while appearing before judicial/quasi-judicial bodies and tribunals.
- There are certain basic preparatory points which a Company Secretary should bear in mind when contacted by a client.
- How you look can be a major factor in how you are perceived by others. How you look, talk, act and work determines whether you are a professional or an amateur.
- Company Secretaries should be able to formulate and present a coherent submission based upon facts, general principles and legal authority in a structured, concise and persuasive manner. They should understand the crucial importance of preparation and the best way to undertake it.

### GLOSSARY

**Court Craft-** For winning a case, art of advocacy is important which in essence means to convince the judge and others that my position in the case is the proper interpretation.

**Arguments on Preliminary Submissions-** The arguments which are primarily confine to the true and correct facts regarding the issue involved and which have been suppressed or not disclosed by the other side in the pleadings.

**Arguments on merits-** Such arguments as relate to the facts pleaded by the parties are termed as arguments on merits.

**Rule of Adverse Inference-** No evidence is required of matters which are, either formally admitted for the purposes of the trial, in civil cases, by the pleadings, by answer to interrogatories, by agreement or otherwise and in criminal cases, as regards proof of those documents admitted.

### TEST YOURSELF

*(These are meant for recapitulation only. Answer to these questions are not to be submitted for evaluation.)*

1. Explain Dressing, Handshake and Communication Etiquettes.
2. Writes Short notes on:
  - a) Court Craft
  - b) Oral Pleadings.
3. Explain the duties of Company Secretary during the presentation towards Court and Client.
4. What is meant by etiquette? Why practicing good professional etiquette is necessary for professional success?
5. What are the Pre-Requisites for entering into appearance before Court/Tribunal?
6. Explain the important considerations while drafting Affidavit in Evidence.

