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LEIN ON CLIENT'S BOOKS.....?

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HITESH (chartered accountant) 18 October 2010

CAN THE AUDITOR HAVE LEIN ON BOOKS OF CLIENTS?

Yes, he can but it is conditional.....

ITS THE ANSWER IN MANY BOOKS EXCEPT PADHUKAS :

ANSWER IN PADHUKAS :

There is a judgement namely:- R.D.Saxena Vs Balaram Prasad Sharma [2000]

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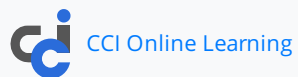
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The auditor cannot apply lien on clients books and he can proceed through any other legal action

for getting his fees.....!

PLEASE CLEAR MY DIALEMA

THANKS IN ADVANCE.....



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••• [CA CS Himanshu Khandelwal](#) (SAP FICO Consultant) 18 October 2010

As far as i know the auditor can have a lien on client's books provided tht the fees of the auditor is outstanding....

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But an auditor should not exercise his ri8 to lien on client's books bcoz its not ethical....

Correct me if i m wrong....



••• [sivadas chettoor](#) (CA) [🕒 03 November 2012](#)

An auditor has got no authority to retain the books of the client for non-payment of fee. The remedy for him is to sue for the fee but must return the documents/records. There is no lien available either under the Indian contract Act (section 171) or in general law. The decision in Saxena is very clear and a lawyer has no lien. I think there is a supreme court decision directly on the point related to CA.I am in search of the decision now. If anybody gets it please post it here.

siva208 @ yahoo.com



••• [NIRAJ AGRAWAL](#) (ca) [🕒 06 November 2012](#)

yes auditor can exercise right on lein on clients books provided it comes in possession through fair means



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I am giving below a passage which I consider as a starting point for the thoughts in respect of lien of auditors. The Indian law is heavily influenced by English law . Our Institute while preparing the materials have relied on what the Institute of England and wales said about lien. Please note that the English Institute in turn relied on Woodworth V conroy. The said decision according to me cannot be blindly applied in India. Even in England, now there is a tendency to crticise woodworth decision. Anyway, I am giving the passage from **GUIDANCE NOTE** issued by Hongkong CPA.

"...It has long been thought, and it is now established by a decision of the Court of Appeal, that an accountant has a particular lien over documents belonging to his client in respect of which the accountant has performed work for which he has not been paid the fee due. In Woodworth v Conroy [1976] Q.B. 884, Lord Justice Lawton (with whom the rest of the court agreed) said: "I would adjudge that accountants in the course of doing their ordinary professional work of producing and auditing accounts, advising on financial problems, and carrying on negotiations with the Inland Revenue Department in relation to both taxation and rating have at least a particular lien over any books of account, files and papers which their clients delivered to them and also over any documents which have come into their possession in the course of acting as their client's agents in the course of their ordinary professional work." He added that accountants may enjoy a wider lien than this but that it was unnecessary for the purposes of the case to deal with that question. **Despite the fact that the point was kept open, counsel advises that in the absence of a special contractual provision**

accountants do not have a right of general lien in law and members are advised not to assert such a right against a client unless they are expressly given that right by their contract with the client."



• • • [sivadas chettoor](#) (CA) [🕒 06 November 2012](#)

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auditing accounts, advising on financial problems, and carrying on negotiations with the Inland Revenue Department in relation to both taxation and rating have at least a particular lien over any books of account, files and papers which their clients delivered to them and also over any documents which have come into their possession in the course of acting as their client's agents in the course of their ordinary professional work." He added that accountants may enjoy a wider lien than this but that it was unnecessary for the purposes of the case to deal with that question. Despite the fact that the point was kept open, counsel advises that in the absence of a special contractual provision accountants do not have a right of general lien in law and members are advised not to assert such a right against a client unless they are expressly given that right by their contract with the client.

I will get back to you with more information on lien and the correct law on this point. Plesae give me time.

siva208 @ yahoo.com



• • • [CA Vinayak akula](#) (none) 06 November 2012

(As per the Audit Module, The ICAI)

The auditor can exercise his lien on client's books and records subject to the following conditions:


- (a) Document retained must belong to the client who owes the money.
- (b) Such documents must have come into auditor's possession with the client's authority.
- (c) work must have been done and fees for work performed must be outstanding.
- (d) Documents related to the work performed can only be retained.

(As per the case judgement & indian contract act)

Files containing copies of record cannot be equated with the goods referred to u/s 171 of indian contract act 1872, the term "goods" mentioned in the act must be understood same as defined in sale of goods act thus goods having saleable value can be sold and the fees could be recovered where as there is no scope of converting the case file into money nor they can be sold to third party. thus the judgement was in the favour of bank stating that the advocate must return & find other remedies to claim his remuneration.

The Act Supercedes The Guidelines Issued by any authority so the auditor cannot apply lien on clients books and he can proceed through any other legal action



••• [Kumar A. Ranjan](#) (Student)  05 April 2013

thanks for sharing this info...thanks



••• [NILA REJESH P](#) (Chartered Accountant)  19 June 2014

According to my knowledge auditor has lien on clients' book on which work has been done and fee has not been paid.



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