



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

**File No.: PR- 77/2015-DD/123/2015-DC/641/2017**

**In the matter of:**

**Shri K.S. Kaushik,  
Serious Fraud Investigation Office  
Ministry of Corporate Affairs,  
Government of India,  
2<sup>nd</sup> Floor, Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
NEW DELHI - 110 003**

**.....Complainant**

**Versus**

**CA. Basudeb Mukhopadhyay (M.No. 053104)  
Partner, M/s Basu & Mukhopadhyay,  
Chartered Accountants,  
16/C, Barabagan Lane,  
P.O. Mallick para, Serampur,  
Distt. HOOGHLY – 712 203**

**.....Respondent**

**Members Present :**

**CA. Prafulla Premsukh Chhajed, Presiding Officer  
Smt. Anita Kapur, Member (Govt. Nominee)  
Shri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)  
CA. Debashis Mitra, Member**

**Date of Final Hearing: 16<sup>th</sup> July 2019**

**Place of Final Hearing: Kolkata**

**Parties Present:**

**(i) CA. Basudeb Mukhopadhyay –Respondent**



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1. Vide report dated 26.07.2019 (**copy enclosed**), the Disciplinary Committee was of the opinion that **CA. Basudeb Mukhopadhyay (M.No. 053104)** was **GUILTY** of Professional and Other Misconduct falling within the meaning of Clauses (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to the allegations relating to the statutory audit of M/s. Global Automobile Limited (hereinafter referred to as '**GAL**') for the financial year 2010-2011 wherein it is stated that the Respondent had given unqualified report with regard to decrease in inventory of Rs 105 crores without making adequate inquiries from the management of the Company. Thus, it was alleged that he had failed to discharge statutory duties imposed upon him.

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 28<sup>th</sup> June 2019 was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 16<sup>th</sup> July 2019 at Kolkata.

3. The Respondent appeared before the Committee on 16<sup>th</sup> July 2019 at Kolkata and made his written representations vide letter dated 16<sup>th</sup> July 2019. He also made his oral submissions before the Committee wherein, inter alia, he stated that he was denied the opportunity to cross examine Shri Sudipto Sen and SFIO inspector. He further stated that the financial statements for year ended 31<sup>st</sup> March 2010 were audited jointly and the joint Auditors were convinced that the figure for the stocks as disclosed in the financial statements were appropriate. The Disciplinary Committee did not ever consider it appropriate to examine the other auditor. It was a fact that for the year ended 31<sup>st</sup> March, 2011, the stocks had been depleted as there were no other options except to record the reduction in the valuation of stocks by Rs.105 crores as disclosed in the financial statement appropriately which were prepared by the management of the Company and the Respondent had ensured that any user of the financial statements would become aware of this basic fact. Considering the fact that detailed information regard reduction in the value of stock was visible in the financial statements, the question of any modification in the auditor's report did not arise. He further contended that the disciplinary proceedings were conducted by the Disciplinary Committee Bench-III whose composition was different from the one that conducted the hearing in terms of the provisions of Rule 19(1) of the said Rules.

4. The Committee considered the submissions of the Respondent and noted that the extant complaint was filed against the Respondent firm and the Respondent firm was the statutory auditor of FY 2009-10 and 2010-11. The Respondent was the statutory auditor of GAL for the



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financial year 2010-2011 and had issued unqualified audit report for the said year despite the fact that the inventory worth Rs. 105 Crores was written off by the Company.

5. As regards the said allegation, the Respondent was directed to submit copies of his working papers in context of verification and valuation of inventory of GAL for FY 2010-11 and to provide copy of evidences based on which the Respondent was convinced that writing off inventory was justified. The Respondent claimed that the third party verification was conducted by the bankers who had advanced large amounts of money to GAL and since their stakes were high, the repeated stock verification reports with the same conclusion were a clear pointer that the stocks did not exist as at 31st March, 2011. The Respondent was, thus, convinced with the disclosure in the financial statement for the FY 2010-11 regarding writing off of inventories and there was no other matter relating to inventories that required to be examined with respect to the internal controls in the GAL. The Respondent urged that the reports of the third party verification coupled with the consent of the management to write off the inventories to the extent of Rs.105.44 crores were sufficient basis for the Respondent to take such action.

6. The Committee noted that despite multiple opportunities provided to the Respondent, to prove his defense, he was unable to bring on record his audit working papers, other documents relied upon by him for the purpose of checking genuineness of writing off entry except four reports of the inspection conducted by bankers, out of which two were beyond the balance sheet date for the said year. The other two reports were perused by the Committee and on perusal it was noted that nowhere it was specified or any circumstance was brought out which would have warranted writing off of the inventory to the tune of Rs. 105 crores. It further noted that any stock report on a particular date say May 2010 or June 2010 could not give information of stock as on B/s date i.e March 2011. So the argument of the Respondent that he had relied on stock verification report of the bankers was not accepted.

7. Thus upon overall consideration and looking in to the facts of the case, the Committee noted that value of stocks written off was material considering the fact that profit before tax was (Rs. 987.13), the total fund available were Rs. 193 Cr., out of which Rs. 170 Cr. were unsecured loans and in such circumstances, it was viewed that a write off of such inventory was substantial and had a material impact. Accordingly, it was unreasonable on part of Respondent to conclude that such material write off was justified without any basis or



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evidence and without mentioning about it in audit report, though such write off may suggest a threat to continue as going concern.

8. The Committee further noted that the Respondent vide his letter/representation dated 16<sup>th</sup> July 2019 in the cited matter had also raised the plea wherein he had inter-alia stated that the Committee that conducted the disciplinary hearings was different from the one which dealt with/was empowered to pass order under Rule 19 (1) of the said Rules. Upon examination of the relevant provisions of the Chartered Accountants Act, 1949 and the Rules framed there under, the Committee noted that the said plea of Respondent was legally not tenable as neither the Chartered Accountants Act, 1949 nor the Rules framed there under specifically provided for or confers on the party a "*right to have his case decided by a judge who heard the whole of it*". As regard the another plea of Respondent to allow examination of the Shri Sudipto Sen and SFIO Inspector, it was noted that the same had been dealt under para 7, 8 and 12 of report dated 26.07.2019 (*ibid*). In respect of cross examination of Shri Sudipto Sen, the DC Findings stated that the same was not required, since the Respondent's defence was considered in terms of his audit working papers which were essential for any auditor to maintain and the Respondent failed to produce them. For cross examination of SFIO inspector, it was noted that Committee sought evidence to establish that Respondent had retracted from his statement on oath which again the Respondent failed to bring on record.

9. The Committee was thus of the opinion that the misconduct on the part of the Respondent had been established within the meaning of Clauses (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered the removal of name of Respondent **CA. Basudeb Mukhopadhyay (M.No. 053104)** from Register of Members for a period of 4 (Four) years.

Sd/-  
[CA. Prafulla P. Chhajed]  
Presiding Officer

Sd/-  
[Smt. Anita Kapur]  
Member, Govt. Nominee

Sd/-  
[Shri Ajay Mittal, IAS (Retd.)]  
Member, Govt. Nominee

Sd/-  
[CA. Debashis Mitra]  
Member

Date: 16<sup>th</sup> July, 2019

Place: Kolkata



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**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH-III (2018-19)]**

**[Constituted under section 21B of the Chartered Accountants  
(Amendments) Act, 1949]**

**Findings under Rule 18(17) of the Chartered Accountants (Procedure of  
Investigations of Professional and Other Misconduct and Conduct of  
Cases) Rules, 2007**

**File No.: PR- 77/2015-DD/123/2015-DC/641/2017**

**In the matter of:**

**Shri K.S. Kaushik,  
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Partner, M/s Basu & Mukhopadhyay,  
Chartered Accountants,  
16/C, Barabagan Lane,  
P.O. Mallick para, Serampur,  
Distt. HOOGHLY – 712 203  
.....Respondent**

**Members Present:**

**CA. Naveen N.D. Gupta, Presiding Officer  
Mrs. Anita Kapur, IRS (Retd.), Member (Govt. Nominee)  
CA. Shyam Lal Agarwal, Member  
CA. Sanjay Kumar Agarwal, Member**

**Date of Final Hearing: 27<sup>th</sup> August, 2018**

**Place of Final Hearing: Kolkata**

**Parties Present:**

- (i) CA. Basudeb Mukhopadhyay –Respondent**
- (ii) CA. A. P. Singh – Counsel for Respondent**

**Allegations of the SFIO:**



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1. It is stated that the Respondent was the statutory auditor of M/s. Global Automobile Limited (hereinafter referred to as 'GAL') for the financial year 2010-2011. As per para 4.2.151 of the Investigation report (**C-279**) of SFIO, the Respondent had admitted to have given unqualified report with regard to decrease in inventory of Rs 105 crores without making adequate inquiries from the management of the Company. It is further alleged that no written reply was obtained by the Respondent from the management in this regard which indicated that he did not make detailed enquiries in this regard. Thus, it was alleged that he had not discharged statutory duties imposed upon him by the Companies Act, 1956.

**PROCEEDINGS:**

2. At the time of hearing on 27<sup>th</sup> August, 2018, the Committee noted that the Respondent was present in person along with his authorized Counsel to appear before the Committee. It was further noted that the Complainant vide its letter/email dated 24<sup>th</sup> August, 2018 had submitted that the documents in support of the complaint were already on record and the matter was argued by it in the previous hearing held on 26<sup>th</sup> July 2018 and therefore the matter be decided on merits. The Committee noted that the matter was part heard on 26<sup>th</sup> July, 2018 and directions were given to the Respondent to submit.
  - I. Copy of his working papers in the context of verification and valuation of inventory of GAL for FY 2010-11.
  - II. Copy of evidences based on which the Respondent felt that sudden write off of inventories for Rs. 105cr was justified without expressing any opinion on the matter in his audit report.

It was noted that as on the date of hearing the Respondent had not submitted any document/information as sought by the Committee. The Committee thereafter proceeded ahead in the matter. During the course of hearing, the Counsel for the Respondent made his oral submissions regarding the information sought. The Committee then



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examined the Respondent. The Counsel for the Respondent, thereafter made his final submission in the matter. The Committee again directed the Respondent to submit in addition to documents/information sought earlier the following, within a period of 15 days from the date of hearing:

- a. Submission of the Respondent on the observations of the Committee regarding the materiality of the event of writing off inventory when considered in context of various parameters of the financial statements highlighted by the Committee during the hearing relating to Sales, Profit after Tax (PAT) and size of Balance sheet considering the debit balance of Profit & Loss Account and loans liabilities of the company as on the date of Balance sheet.
  - b. Submissions as to how he convinced himself that internal control of the Company was duly evaluated to ensure reasonable assurance for verification conducted during audit.
  - c. Submissions on the relevant points highlighted by the Committee in the 'Guidance Note of Audit of Inventories'.
3. It was noted that the Respondent, vide written statement dated 29<sup>th</sup> September, 2018, informed that he had earlier made his submissions dated 3<sup>rd</sup> September 2018 which were not received by the office. It was noted that such submissions were primarily a reiteration of his previous submissions dated 28<sup>th</sup> May, 2018. Accordingly, after consideration of the matters placed on record, the Committee concluded the hearing in the matter.

**Findings of the Committee:**

4. Upon perusal of the documents on record, namely, the Complaint, Written Statement and Prima Facie Opinion and further written/oral submissions made by both the Complainant and the Respondent, the Committee noted that the Complainant had alleged against the Respondent that he had issued unqualified audit report for F.Y. 2010-2011 despite the fact that the inventory worth Rs. 105 Crores was



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written off by the Company. It had also been alleged that inventories were written off without conducting reasonable inquiries or obtaining any evidence in respect of the same.

5. The Committee noted that the Respondent in this regard had submitted that he had considered writing off of the stocks for an amount of Rs. 105 Crores based on the documentary evidence and the actual circumstances of the case. It was claimed by him that the third party verification was conducted by the bankers, who had advanced large amounts of money to GAL. He was of the view that since their stakes were high, the repeated stock verification reports with the same conclusion were a clear pointer that the stocks did not exist as at 31st March, 2011. The Respondent was, thus, convinced with the disclosure in the financial statements regarding writing off of the inventories and there was no other matter relating to inventories that was required to be examined with respect to the internal controls in the company. The Respondent urged that the reports of the third party verification coupled with the consent of the management to write off the inventories to the extent of Rs.105.44 crores were sufficient basis for the Respondent to take such action.
6. As regard materiality, the Respondent argued that if the matter in hand was material in nature, it was required to be separately disclosed in financial statement. The Respondent submitted that in the extant case Schedule 19 of the financial statement for the FY 2010-11 clearly disclosed the fact of writing off of inventories and accordingly to him proper disclosure was made. The Respondent further argued that Guidance Note on Inventories was applicable only on the inventories existing on the balance sheet date. However, the inventories, in the extant case, were missing which could not be verified by him after performing any audit procedures. Further, the Respondent contended that whether the matter relating to inventories written off was required to be reported in audit report or not was a matter of judgment, which as per him could not be considered as professional misconduct.





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7. The Committee further noted in the above context that the Respondent had admitted in his statement on oath recorded u/s 240(2) of the Companies Act, 1956 that:

- a) *GAL under Saradha Group explained to them at the time of taking over the company from the Xenitis Group, a physical verification of inventories, raw material, stores was conducted and valued at Rs 989.99 Lac and the balance amount of Rs. 10544.33 lac had been adjusted in Profit & Loss Account.*
- b) *As he had audited GAL from its incorporation and found sound internal control management in relation to maintenance of inventories, they had relied on the statement given to them by management and no further audit procedure had been followed by him in this behalf (audit being conducted with joint auditor).*
- c) *They did not conduct the valuation of such inventories, raw material and stock because during that period he did not have any connection with Saradha Group of companies. As the audit was done after a gap of nearly one year, it was not feasible to conduct any valuation of such assets.*
- d) *The Company did not provide him any supporting documents regarding the writing off inventories, raw material and stores. Though, he asked for the requisite papers regarding such writing off, however they did not provide any papers to him despite his repeated requests.*
- e) *The new management of the Company had prepared the statement of accounts and his duty was to examine and to disclose the true facts which he had given in the Schedules and Notes to Accounts. However, he had failed to ask for written reply from the management regarding the details of such write-off.*
- f) *He admitted to have committed a mistake in not qualifying his audit report in regard to writing off the inventory.*

8. It was noted by the Committee that the Respondent in his further written submission had requested to examine Shri. Sudipta Sen (of



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Saradha Group), who had submitted the following in his statement recorded on Oath u/s 240(2) of Companies Act 1956:

*“That the accounts of the company were falsely prepared by Sh. Santanu Ghosh and Smt. Sudeshna Ghosh with their statutory auditors, and this stock was shown in the Balance Sheet to take working capital loan from the Banks. However, no physical purchase was made by the two aforesaid persons and the same was written off later through profit & loss account. This fact I have already brought to the notice of the Excise Department at the time when its officers came to me for verification.”*

as well as SFIO Inspectors alongwith joint auditors of previous period. He even questioned authenticity of his own statement recorded on oath during investigation. The Committee sought evidence, to establish that Respondent had retracted from his statement on oath, however, no such evidence was brought on record by the Respondent.

9. The Committee also noted that despite multiple opportunities given, to prove his defense, the Respondent was unable to bring on record his audit working papers, other documents relied upon by him for the purpose of checking genuineness of writing off entry except four reports of the inspection conducted by bankers, out of which two were beyond the balance sheet date for the said year. The other two reports were perused by the Committee and on perusal it was noted that nowhere it was specified or any circumstance brought out which would have warranted writing off of the inventory to the tune of Rs. 105 crores. Rather the inspection report dated 3<sup>rd</sup> June 2010 had stated that :

*“Stock worth Rs.1330.97 lakhs was at the kamdevpur factory as per the statement provided by the Company as on 03.06.2010. Even though the company agreed to provide the position of the stocks in Parwana and also the stocks in the custom godowns and the list of book debts on 5.6.2010 ,till the time of this report is being finalized , the same was not made available.”*



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10. On perusal of such inspection reports, the Committee was of the view that the contents of the said report nowhere concluded that the stock of the said amount was depleted and there was a need to write off such inventories.
11. It was further viewed that any stock report on a particular date say May 2010 or June 2010 could not give information of stock as on B/s date i.e March 2011. So the argument of the Respondent that he had relied on stock verification report of the bankers cannot be accepted. On asking for the working papers based on which the Respondent had been convinced that stocks had depleted during the said financial year or the stocks appearing in financial statement was correct, the Respondent failed to produce anything not even any management representation letter based on which he had certified either the then existing stocks or the write off. It was viewed that value of stocks written off was material. Considering the fact that profit before tax was (Rs 987.13), the total fund available were Rs. 193 Cr. Out of which Rs. 170 Cr. were unsecured loans, it was viewed that a write off of Rs.115 Cr. was substantial. It had material impact. However, the Respondent failed to produce any evidence based on which he concluded that such material write off was justified without mentioning about it in audit report, though such write off may suggest a threat to continue as going concern.
12. It was, further, noted that Respondent had failed to produce any evidence based on which he had evaluated the reasonableness of internal control system relating to inventories, although in his statement on Oath he argued to be well convinced with the then existing internal control system of stock verification. It was viewed that there was substantial write off and non maintaining sufficient working papers in relation to the same was not acceptable. It was noted that the Respondent had requested to cross-examine Mr. Sudipto Sen, whose statement on oath was relied upon by Director (Discipline) to conclude on the case. The Committee viewed that no such



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examination was required. Audit working papers were essential for any auditor to maintain, which the Respondent had failed to produce.

13. In view of above, the Committee felt that in the extant case, the Respondent could not bring on record any corroborative evidence to prove that he made adequate inquiries from the management of the Company regarding the disclosure of inventories being writing off in the accounts. The Committee further noted from perusal of the financial statements of the Company that it was evident that after such write off in profit and loss account, there were serious concerns on going concern assumption used for preparation of financial statement. Further, in the absence of any evidence, the Committee was not convinced with the audit verification procedures adopted by the Respondent to satisfy himself as regard the material write off from the accounts. Accordingly, the Committee is of the view that the Respondent is GUILTY of professional misconduct falling within the meaning of Clauses (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

**Conclusion**

14. Thus, in conclusion, in the opinion of the Committee, Respondent is GUILTY of professional misconduct falling within the meaning of Clauses (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

**Sd/-**  
**(CA. Naveen N.D. Gupta)**  
**Presiding Officer**  
**Nominee)**

**Sd/-**  
**(Mrs. Anita Kapur)**  
**Member(Govt.**

**Sd/-**  
**(CA. Shyam Lal Agarwal**  
**Agarwal)**  
**Member**

**Sd/-**  
**(CA. Sanjay Kumar**  
**Member**

**Date : 11<sup>th</sup> January, 2019**

**Place : New Delhi**