

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2018-2019)]**

**[Constituted under Section 21B of the Chartered Accountants  
(Amendment) 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-195/2012-DD/214/12/DC/377/14]**

**In the matter of:**

**Shri Jyotirmoy Mandal,**  
Flat No.1045, Sector –C,  
Pocket -1,  
Vasant Kunj,  
**NEW DELHI – 110 070**  
**Versus**

**...Complainant**

**CA. Kanhaiya Lal (M. No. 508153),**  
M/s. Kanhaiya Lal & Co.,  
Chartered Accountants,  
302, Avadh Complex,  
D-5, Laxmi Nagar,  
**DELHI – 110 092**

**... Respondent**

**MEMBERS PRESENT:**

**CA. Prafulla P. Chhajed, Presiding Officer**  
**Shri Rajeev Kher, I.A.S. (Retd.), Govt. Nominee**  
**CA. Amarjit Chopra, Government Nominee**  
**CA. Mangesh P. Kinare, Member**  
**CA. Sushil Kumar Goyal, Member**

**DATE OF FINAL HEARING : 09.07.2018**

**PLACE OF FINAL HEARING : ICAI Bhawan, New Delhi**

**PARTIES PRESENT:**

**Complainant : Shri Jyotirmoy Mandal**  
**Respondent : CA. Kanhaiya Lal**

**Shri Jyotirmoy Mondal -vs.- CA.Kanhaiya Lal (M. No. 508153)**

**Charges in Brief:-**

1. The Complainant had been one of the donor members of the Raisina Bengali School Society (hereinafter referred as **the School**) and also acted as the Chairman of the Fact finding Committee. Said Society was registered and had run two schools one at Mandir Marg, New Delhi and another at Chittaranjan Park, New Delhi. The Respondent has acted as the auditor of the Society for the Financial Year 2011-2012.
  - 1.1 The Committee noted that the Complainant had made many charges against the Respondent, however, the Respondent was held Prima Facie Guilty in respect of only one charge, which is as under:-
  - 1.2 Balances of previous year were not adopted and inserted in the Accounts for financial year 2011-2012. This should have been objected by the Respondent and without getting these figures the Respondent should have given up the Audit.

**Brief facts of the Proceedings:**

2. On the day of hearing i.e. 09/07/2018, the Committee noted that the Complainant and the Respondent were present and appeared before it.
  - 2.1 The Complainant and the Respondent were put on oath. The Complainant explained the charges. On being asked whether the Respondent pleads guilty, he replied in negative. However, he requested the Committee that his Counsel is out of India and requested for adjournment of this case.
  - 2.2 He further submitted that he has no documents related to this case in his possession as all papers are with his Counsel and he is not in position to defend the charges.

2.3 The Committee requested him that as he has conducted the audit of the School, therefore, he should be in position to respond the charges which are related to the audit. However, again he expressed his inability to defend the charges in absence of his Counsel.

2.4 Since this case was adjourned at the request of the Respondent on earlier occasion also, the Committee rejected his plea for adjournment and decided to proceed with the case.

2.5 The Complainant explained the charges. Thereafter, both the parties were examined by the Committee and after recording the submissions of both the parties, the Committee directed the Respondent to provide following papers/clarifications within 15 days time:-

- (i) How net block of fixed assets could be greater than gross block and how depreciation can be added to fixed assets?
- (ii) Clarification on loan of Rs. 1.22 lakhs as to why he did not qualify his audit report when this loan was not incorporated in Balance Sheet.
- (iii) Basis for certification of opening balances.
- (iv) Compliance of SA 510.
- (v) Working papers related to cash verification.
- (vi) Receipt and payments account.
- (vii) Clarification regarding how Balance Sheet is not tallying with Schedule e.g. figures in schedule 3 is not matching with figures appears in Balance Sheet.
- (viii) Final written submissions, defending the charges and giving above information/explanation.

With these directions, the Committee concluded the hearing in captioned matter.

2.6 The Respondent though did not submit anything within the stipulated time period in compliance of above directions of the Committee, yet, vide his

letter dated 14<sup>th</sup> August, 2018 submitted his defence apart from raising certain objections on the procedural aspect of the Disciplinary Committee. In his aforesaid submissions, the crux of the contentions of the Respondent are as under:-

2.6.1 There is no missing cash of Rs. 12.59 lakh as alleged by the Complainant. This amount was not shown in the Schedule. The amount of Rs. 12,58,835.10/- represents the balance in Axis bank. The sub-total and the final total includes this amount. It is clear that the above amount has been missed due to typographical error. The Respondent also submitted copy of bank statement of A/c no. 910010036382872 showing the closing balance of Rs. 12,58,835.10/- as on 31.03.2012 maintained with Axis bank.

2.6.2 Further, he submitted that the Complainant has blatantly failed to prove any misappropriation of cash and has just based the allegation on bald statements without any cogent evidence. The Respondent has also enclosed copy of management certificate regarding cash balance Rs. 8,16,208/- as on 31.03.2012 along with the demonization details claimed to be obtained during the finalization of the books of the Society.

2.6.3 The non-preparation of Receipts and Payments Accounts by the Respondent does not prove anything about the cash balance and bank balance. The Complainant has made bald allegations without cogent evidence. The audit has been conducted by the Respondent on the basis of books of account and trial balance as certified by the Management of the Society.

2.6.4 The Respondent has further contended that absence of Receipt and Payment Account cannot affect the authenticity of Cash and Bank balance and it is incorrect to say that the audited financial statements are incomplete. The integrity of cash management cannot be challenged just on the basis of non-preparation of Receipts and Payments accounts.

2.6.5 The Net Block figure of Rs. 2,83,19,569/- is the amount taken out after adding depreciation to the gross block, which is an inadvertent error while preparing the balance sheet in the Excel sheet program. The inadvertence cannot be considered as professional misconduct. However, total of "Application of Funds" is reflected correctly which includes the net block derived after deduction of depreciation from the gross block.

2.6.6 As regards the loan amount of Rs. 1.22 crores, the Respondent invited attention to Point no. 7 of the Notes to Accounts which is reproduced hereunder:

*7) The outstanding loan amount of Rs. 1,22,88,691.00 belongs to School at C R Park which were raised by the previous management committee before 1.6.2011. The previous management committee has not handed over any substantial evidence or documentation regarding this loan and its utilization. And as there is no audited balance sheet available for last two years, the current management committee is still working on to gathered substantial evidence about this before including it to the books of accounts.*

**Findings of the Committee:-**

3. The Committee noted that there is only one charge against the Respondent which is explained in para 1.2 above.

3.1 On perusal of audited Financial Statements of the School and submissions of the Respondent, the Committee noted that it was mentioned in Notes to Accounts :

*"In the absence of audited Financial Statements of the School at C.R. Park for the previous 4 Financial Year ended on 31<sup>st</sup> March, 2011 and other relevant documents, the new*

*Management has made all the efforts necessary to collect all the information relevant for preparing the Financial Statements so as to give a true & fair view of the financial position of the Society as at 31<sup>st</sup> March, 2012. The new Management has relied upon the certified copy of Financial Statements of the School at C.R. Park as on 31<sup>st</sup> March, 2009 drafted by CA. The actual figures may vary from those disclosed in the Financial Statements”*

- 3.2 In view of above note, the Committee was of the view that though the Management of the Society has mentioned that it made all effort necessary to collect all the information relevant for preparing the Financial Statement, but the Respondent as an auditor was to comply with the requirement of SA 510 on “Initial Engagements - Opening Balances”, which states as under:-

*Para 5 of SA 510, “The auditor shall read the most recent financial statements, if any, and the predecessor auditor’s report thereon, if any, for information relevant to opening balances, including disclosures”.*

*Para 10 of SA 510, “If the auditor is unable to obtain sufficient appropriate audit evidence regarding the opening balances, the auditor shall express a qualified opinion or a disclaimer of opinion, as appropriate, in accordance with SA 705.”*

- 3.3 On perusal of above requirement of SA 510, the Committee was of the opinion that the Respondent was required to obtain sufficient audit evidence that the closing balance of preceding year have been correctly brought forward to the current year. But in the instant matter, the Respondent failed to explain as to how he assured himself that the opening balances were correctly brought forward and same did not contain any material misstatement as the Management mentioned that the actual

figures may vary from those disclosed in the Financial Statement and certain item of material amount i.e., loan and bank balance were disputed.

3.4 The Committee further opined that alternatively, the Respondent could have qualified his report giving reference to the Notes to Accounts as per SA 510, which he also failed to do.

3.5 Further, the Committee took a perusal of audited Financial Statements of the School certified by the Respondent and noted the following apparent gross negligence (s) on the part of the Respondent, which are as under:-

(i) The net block of fixed assets was greater than gross block of fixed assets. The depreciation on fixed assets charged during the year has been added to gross block, instead of deducting the same from gross block. The Said mistake has been accepted by the Respondent also in his submissions at para 2.6.5 above.

(ii) Current liabilities certified in the Balance Sheet are Rs. 44,62,040.00, but same is different as shown in respective schedule i.e.Rs. 50,84,068.00. It is also noted that there is error in totaling and correct figure is same as shown in Balance Sheet i.e. Rs.44,62,040.00.

(iii) Similarly expenses payable has been certified in balance Sheet Rs. 2,56,139.00 but same has been shown in schedule Rs.2,47,139.00.

(iv) Total Cash and Bank balances certified in Balance Sheet is Rs. 80,40,706.00, but in schedule, the same is appearing as Rs. 67,81,870.86.

(v) Short term loans and advances are Rs. 13,38,741.00, but in schedule the same has been certified as Rs.9,83,615.11.

(vi) Similarly, certain expenses certified in Profit and loss account and in schedule are substantially different, which are as under:-

<b>S. N.</b>	<b>Particulars</b>	<b>Amount in Profit &amp; Loss Account (Rs.)</b>	<b>Amount in Schedules (Rs.)</b>	<b>Difference (Rs.)</b>
1.	Administration Expenses	53,38,510.93	24,06,665.93	29,31,548.00
2.	Celebration & Cultural activities	4,52,421.00	4,46,823.00	5,598.00

3.6 Furthermore, it is also observed that there is mistake in totaling of these schedule. In re-totaling the amount is exact as shown in profit and loss account.

3.7 After observing above mistakes, the Committee was of the view that though the Respondent has taken a plea of inadvertent or typographical errors, yet it appears that he even did not bother to match the amount appearing in different schedules with the items certified by him in Balance Sheet and Profit & Loss account.

3.8 Thus, the Committee was of the opinion that the Respondent had adopted a very casual approach while certifying the financial statements of the School.

3.9 The Committee also noted the causal approach adopted by the Respondent while defending his case. The Respondent was directed to submit the documents / explanation within 15 days' time, however, he submitted his explanation after more than one month from the date of hearing. The Committee also finds that the Respondent could not submit



any satisfactory reply on the basis for certification of opening balances and regarding compliance of SA 510.

3.10 In view of above noted findings, the Committee was of the view that the Respondent was grossly negligent in performance of his professional duties. Further. He also failed to obtain sufficient information which were necessary for expression of opinion on financial statements of the School.

**Conclusion**

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

**Sd/-  
(CA. PRAFULLA P. CHHAJED)  
PRESIDING OFFICER**

**Sd/-  
(CA. SUSHIL KUMAR GOYAL)  
MEMBER**

**Sd/-  
(CA. MANGESH P. KINARE)  
MEMBER**

**Sd/-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE**

**Sd/-  
(SH. RAJEEV KHER, I.A.S. (Retd.)  
GOVERNMENT NOMINEE**

**DATE : 05<sup>th</sup> February, 2019**

**PLACE : New Delhi**

**DISCIPLINARY COMMITTEE [BENCH-I (2019-2020)]**

**[Constituted under Section 21B of the Chartered Accountants Act, 1949]**

**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.**

**In the matter of:**

**Shri Jyotirmoy Mandal, New Delhi**

**-Vs-**

**CA. Kanhaiya Lal (M.No.508153) of M/s. Kanhaiya Lal & Co., Chartered Accountants, New Delhi**

**[PR-195/12-DD/214/12/DC/377/2014]**

**MEMBERS PRESENT:**

**CA. Prafulla Preme Sukh Chhajed, Presiding Officer,  
Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee),  
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee),  
CA. Babu Abraham Kallivayalil, Member  
CA. Dayaniwas Sharma, Member**

1. That vide report dated 05.02.2019, the Disciplinary Committee has inter-alia held **CA. Kanhaiya Lal (M.No.508153)** (hereinafter referred to as the “**Respondent**”) **GUILTY** of professional misconduct falling within the meaning of Clauses (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
2. That pursuant to the said report, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communications dated 3<sup>rd</sup> May, 2019 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 23<sup>rd</sup> May, 2019.
3. The Committee noted that on 23<sup>rd</sup> May, 2019, the Respondent was present and he made his oral submissions on the report of the Disciplinary Committee. The Respondent also vide his letter dated 26.03.2019 made his written representations on the said report.
4. The Respondent through his oral and written representations submitted as under:-
  - i) He has been denied a fair trial and his submissions have been ignored.
  - ii) He had through his written submissions dated 14.08.2018 pointed out that on 09.07.2018, the Committee had only considered the allegations contained in the additional complaint filed by the Complainant.

**Shri Jyotirmoy Mondal -vs.- CA.Kanhaiya Lal (M. No. 508153)**

- iii) The Respondent stated that the Committee failed to prove charges beyond reasonable doubt. The Committee has given his findings merely based on assumption and surmise that balances of the previous year were not adopted and inserted in the annual accounts for the financial year 2011-2012.
- iv) The Respondent stated that according to the news Management Committee of the Society, the notes to accounts were in reference to the period ending 2009 and for the audited period 2011-12. He was under the bona fide belief of the same. Since Notes to Accounts form an Integral part of financial statements and proper disclosure was made, no qualified opinion was given by him.
- v) The Respondent stated that the Committee had not considered the following submissions:-
  - i) The opening balances for the financial year 2011-12 of the School had been arrived at after constant and diligent efforts put in by the Respondent in accordance with SA 510. As it is known that the audited balances of the School for the year 2005-06 to 2010-11 were not available to the Respondent due to internal tussle between the old and new management of the School Society. Thus, while conducting the audit of the School, the Respondent had to rely upon the unaudited financial statements and trial balances duly certified by the Management. The certified trial balance provided the correct information about the opening balances.
  - ii) He had obtained sufficient audit evidence through specified audit procedure (i.e., certified trail balance).
  - iii) No one has made objection in AGM whereat financial statement for the F.Y. 2011-12 was presented for approval.

5. The Committee has considered the reasoning (s) as contained in paras no.3 to 4 of the Disciplinary Committee report holding the Respondent Guilty of professional misconduct vis-à-vis representations of the Respondent.

6. Keeping in view the facts and circumstances of the case, material on record and representations of the Respondent made before it, the Committee is of the view that though the professional misconduct on the part of the Respondent is established, yet it does not qualify for a severe sentence. Accordingly, the Committee orders that the Respondent, **CA. Kanhaiya Lal (M.No.508153) be reprimanded and imposed a fine of Rs.50,000/- (Rupee Fifty Thousand only) (excluding applicable taxes, if any)** upon the Respondent i.e. **CA. Kanhaiya Lal (M.No.508153)** to be paid within 30 days of receipt of this order.

**Sd/-**

**Shri Jyotirmoy Mondal -vs.- CA.Kanhaiya Lal (M. No. 508153)**

[PR-195/2012-DD/214/12/DC/377/14]

**(CA. PRAFULLA PREMSUKH CHHAJED)  
PRESIDING  
OFFICER**

**Sd/-  
(SHRI JUGAL KISHORE MOHAPATRA)  
GOVERNMENT NOMINEE**

**Sd/-  
(MS. RASHMI VERMA)  
GOVERNMENT NOMINEE**

**Sd/-  
(CA. BABU ABRAHAM KALLIVAYALIL)  
MEMBER**

**Sd/-  
(CA. DAYANIWAS SHARMA)  
MEMBER**

**DATE: 23<sup>rd</sup> May, 2019  
PLACE : New Delhi**