



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

[PR/264/16/DD/319/2016/DC/633/17]

**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:

CA. Babu Peram
No.6, VOC 2nd Street
Kodambakkam
CHENNAI – 600 024.

Versus

CA. Raja Sekhara Reddy T (M.No.214732)
Partner, M/s Lakhotia & Reddy (FRNo.009331S)
Chartered Accountants
1080 A, Rohini Flats
Ground Floor, Munuswamy Street
K K Nagar West
CHENNAI – 600 078

[PR/264/16/DD/319/2016/DC/633/17]

MEMBERS PRESENT:

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, Member**
- 4. CA. Chandrashekhar V. Chitale, Member**

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 04.09.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Raja Sekhara Reddy T (M.No.214732)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (8) of Part I of First Schedule and Clause (1) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949.



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2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication dated 19th November, 2019 was sent to him thereby granting an opportunity of being heard in person and/or to make oral/written representation before the Committee on 10th December, 2019 at Chennai.

3. Further, on 10th December, 2019, the Committee noted that the Respondent was present and made written as well as oral submissions on the findings of the Committee holding him Guilty of professional misconduct within the meaning of Clause (8) of Part I of First Schedule and Clause (1) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949.

4. The Committee noted that there are two charges against the Respondent in which he has been held guilty by the Committee, which is as under:-

4.1 The Respondent has undertaken statutory audit of the Company, M/s Label Kingdom Printers Pvt. Ltd, Chennai (hereinafter referred as **the Company**) for the financial year 2009-10 without obtaining prior approval from the previous auditor i.e. the Complainant.

4.2. The audit fee of the Complainant was partly pending with the Company.

5. The Committee noted the findings contained in Report of the Disciplinary Committee dated 04/09/2019 holding the Respondent guilty of professional misconduct, which are as under:-

5.1 *"The Committee observed that the Respondent brought on record a letter dated 10th January, 2011 written to him by the Complainant stating that he has lots of objections regarding the Respondent's appointment as statutory auditor of the Company for the year 2009-10 which was responded back by the Respondent vide his letter dated 28th January, 2011 i.e. after signing the Financial Statements of the Company on 01/09/2010. It is further noted that the Respondent has sent a letter dated 24th January, 2011 to ICAI citing the above stated letter of the Complainant and seeking advice on the matter stating that based on the correspondence on record, he thought that all the formalities relating to appointment have been completed by his erstwhile late partner.*



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5.2 Upon perusal of above documents on record, the Committee observed that even though the initial appointment was in the name of erstwhile partner of Respondent firm and the Respondent has undertaken the same due to death of said partner, however, since the audit report has been signed by him, he would be held responsible for any non-compliance relating to the said audit. It is clear from the written statement of the Respondent that no communication was done by him before undertaking Statutory audit of the Company for the year 2009-10. It was only his belief that the required formalities must have been fulfilled by his erstwhile (deceased) partner; however, he is not having any evidence in this regard. It would have been ideal for the Respondent to have checked all the details and relevant compliances before proceeding further with the auditing work of the Company.

5.3 The second allegation is in respect of pendency of audit fees of the Complainant. The Committee perused the defence of the Respondent in which he has stated that he has enquired from the Company about the dues of the Complainant and the Company has confirmed that there were no dues to the Complainant.

In respect of this, the Committee referred the Council Guidelines on "Appointment of an Auditor in case of non-payment of undisputed fees" and noted the contents which are as under:-

"A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid".

Further as per Explanation 1, "For this purpose, the provision for audit fee in accounts signed by both- the auditee and the auditor shall be considered as "undisputed" audit fee."

5.4 In this regard, upon perusal of documents on record, the Committee observed that in the financial statements of the Company as on 31.03.2009, under the heading, "Current Liabilities & Provisions", in the provisions, amount of Rs. 10,906/- is appearing as Audit Fees Payable. Further, the same is also appearing in the financial statements for the year ending 31.03.2010 signed by the Respondent under the heading of "Current Liabilities" where the previous year's audit fees payable is shown as Rs. 10,906/- and of the current year's as Rs. 67,906/-.



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Thus, it is clear that the Respondent has failed to ensure compliance with the Council's guidelines on this account as stated in preceding para above. Merely stating that the Company has informed that no dues were pending to the previous auditor is not enough as he should have checked the same from the previous year's final accounts and accounts for the current year".

6. The Committee perused the above facts and looking into all these aspects noted that the Respondent failed to communicate with previous auditor before accepting audit assignment. Further, he also failed to ensure that undisputed professional fee of previous year has been paid.

In view of above, the Committee is of the opinion that the Respondent failed to make compliance of provisions of Chartered Accountants Act and rules frame thereunder.

Based on the above findings the Respondent being held guilty of professional misconduct, the Committee is of the view that ends of justice will be met, if the punishment awarded to the Respondent is commensurate with the seriousness of the nature of misconduct.

7. Thus, Keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent before it, the Committee ordered that the Respondent i.e. CA. Raja Sekhara Reddy T (M. No. 214732) be reprimanded and a fine of Rs. 10,000/- (Rupees Ten Thousand only) be also imposed upon him to be paid within 30 days of receipt of this order.

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASHEKHAR V. CHITALE)
MEMBER

DATE : 10/12/2019

PLACE : CHENNAI



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[PR/264/16/DD/319/2016/DC/633/17]

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[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.

[PR/264/16/DD/319/2016/DC/633/17]

In the matter of:

CA. Babu Peram

No.6, VOC 2nd Street

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CHENNAI – 600 024.

....Complainant

Versus

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Partner, M/s Lakhotia & Reddy (FRNo.009331S)

Chartered Accountants

1080 A, Rohini Flats

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CA. Babu Peram, Chennai -Vs.- CA. Raja Sekhara Reddy T (M.No. 214732), Chennai

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[PR/264/16/DD/319/2016/DC/633/17]

CHENNAI – 600 078

...Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer

CA. Amarjit Chopra, Government Nominee

CA. Rajendra Kumar P, Member

CA. Chandrashekhar V. Chitale, Member

DATE OF HEARING : 18.05.2019

PLACE OF HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT:

Complainant : CA. Babu Peram
Respondent : CA. Raja Sekhara Reddy T
Counsel for the Respondent : CA. K. Ravi

Charges in Brief:-

1. The charges in which the Respondent prima facie held guilty are as under:-

1.1. The Respondent has undertaken statutory audit of the Company, M/s Label Kingdom Printers Pvt. Ltd, Chennai (hereinafter referred as **the Company**) for the financial year 2009-10 without obtaining prior approval from the previous auditor i.e. the Complainant.

1.2. The audit fee of the Complainant was partly pending with the Company.



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Brief facts of the Proceeding:

2. The Committee noted that the Complainant in person and the Respondent alongwith Counsel were present and appeared before it. The Complainant and the Respondent were put on oath. The charges were briefed to him and he pleaded not guilty.

2.1 The Counsel for the Respondent/Respondent submitted that said audit was allotted to the senior partner of the firm i.e. CA. S. Krishanan vide letter dated 15.12.2009 of the Company, however, said partner had been deceased on 24/05/2010 then the Respondent carried out the audit and signed the Audit Report of the Company on 01/09/2010 and he was in the belief that all formalities relating to acceptance of said audit has been completed by said partner.

2.2 On other side the Complainant stated that Form 23AC was filed in the name of the firm and membership no. and PAN mentioned in said form belongs to the Respondent.

2.3 After recording the submissions of the Counsel/Respondent, the Committee concluded the hearing in the captioned matter.

FINDINGS :



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3. On perusal of the documents on record, namely, the Complaint, Written Statement, Rejoinder and Prima Facie Opinion and further written/oral submissions of the parties made during the hearing, the Committee gives its findings as under:-

4. The Committee noted that there are two charges against the Respondent, which are elaborated at para 1 above.

4.1 The Committee recorded the submissions of the Respondent and noted that the Respondent in his defence stated that for the financial year 2009-10, the Company has offered appointment to the Complainant vide letter dated 1st October, 2009 which was not accepted by the Complainant as communicated by him to the Company vide his letter dated 10th December, 2009. Hence, in order to fill up the casual vacancy, the Company appointed, Late. CA. S. Krishnan, Partner of Respondent firm as auditor of the Company vide letter dated 15th December, 2009. The Respondent further submitted that since CA. S. Krishnan passed away on 24th May, 2010, the Respondent has taken over the charge in good faith in the interest of the articulated clerk, staff and the clients.

4.2 Further, the Committee observed that the Respondent brought on record a letter dated 10th January, 2011 written to him by the Complainant stating that he has lots of objections regarding the Respondent's appointment as statutory auditor of the Company for the year 2009-10 which was responded back by the Respondent vide his letter dated 28th January, 2011 i.e. after signing the Financial Statements of the Company on 01/09/2010. It is further noted that the Respondent has sent a letter dated 24th January, 2011 to ICAI citing the above stated letter of the Complainant and seeking advice on the matter stating that based on the correspondence on record, he thought that all the formalities relating to appointment have been completed by his erstwhile late partner.



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4.3 Upon perusal of above documents on record, the Committee observed that even though the initial appointment was in the name of erstwhile partner of Respondent firm and the Respondent has undertaken the same due to death of said partner, however, since the audit report has been signed by him, he would be held responsible for any non-compliance relating to the said audit. It is clear from the written statement of the Respondent that no communication was done by him before undertaking Statutory audit of the Company for the year 2009-10. It was only his belief that the required formalities must have been fulfilled by his erstwhile (deceased) partner; however, he is not having any evidence in this regard. It would have been ideal for the Respondent to have checked all the details and relevant compliances before proceeding further with the auditing work of the Company.

Therefore, failure of the Respondent to comply with the provisions of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 stands established and accordingly he is Guilty under the said Clause.

4.4 The second allegation is in respect of pendency of audit fees of the Complainant. The Committee perused the defence of the Respondent in which he has stated that he has enquired from the Company about the dues of the Complainant and the Company has confirmed that there were no dues to the Complainant.

In respect of this, the Committee referred the Council Guidelines on "Appointment of an Auditor in case of non-payment of undisputed fees" and noted the contents which are as under:-

"A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid".

Further as per Explanation 1, *"For this purpose, the provision for audit fee in accounts signed by both- the auditee and the auditor shall be considered as "undisputed" audit fee."*



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4.5 In this regard, upon perusal of documents on record, the Committee observed that in the financial statements of the Company as on 31.03.2009, under the heading, "Current Liabilities & Provisions", in the provisions, amount of Rs. 10,906/- is appearing as Audit Fees Payable. Further, the same is also appearing in the financial statements for the year ending 31.03.2010 signed by the Respondent under the heading of "Current Liabilities" where the previous year's audit fees payable is shown as Rs. 10,906/- and of the current year's as Rs. 67,906/-.

Thus, it is clear that the Respondent has failed to ensure compliance with the Council's guidelines on this account as stated in preceding para above. Merely stating that the Company has informed that no dues were pending to the previous auditor is not enough as he should have checked the same from the previous year's final accounts and accounts for the current year.

Accordingly, the Respondent is held Guilty of Professional Misconduct falling within the meaning of Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949 on this charge.

CONCLUSION :

5. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct in respect of both the charges falling within the meaning of Clause (8) of Part I of First Schedule and Clause (1) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE



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Sd/-

(CA. RAJENDRA KUMAR P)

MEMBER

Sd/-

(CA. CHANDRASHEKHAR V. CHITALE)

MEMBER

DATE : 04-09-2019

PLACE : Mumbai