



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PR-303/13-DD/293/2013/DC/510/16]

**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 S. Krishnan

No. 3, Pyramid Complex

Opp. Vanaprastha

KTN Palayam

Vadavalli

Coimbatore -641041

Versus

CA. Raj Seckhar M S (M. No. 200772)

Mecheri Manor, No.2

S. R. Iyer Layout, Near All India Radio

Trichy Road

Coimbatore -641 045

[PR-303/13-DD/293/2013/DC/510/16]

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. Raj Seckhar M S (M. No. 200772)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of 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 appeared before it. Further, he filed written submissions dated 25.11.2019 as well as oral submissions on the findings of the Disciplinary Committee holding him Guilty of professional misconduct within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

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

4.1 The Respondent was repeatedly requested to show the asset value net of depreciation to reflect a true picture. The depreciation is calculated for the income tax computation but no depreciation is provided in the books.

4.2. The depreciation has not been provided on vehicle.

4.3. Certain other allegations of the Complainant pertains to the activities of running the kitchen and accounting for the revenue and profits from running of the kitchen.

4.4. The promoter has withdrawn substantial amounts in cash from the Society's main account and as well as the sub accounts relating to services. Cash withdraw in excess of Rs. 5000 are prohibited by the byelaws of the Society but the Respondent failed to disclose the same.



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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 “ In respect fi first two charges, the Committee noted that the assets have been duly recorded in the books of accounts of the Society as these are reflected in the Balance Sheet, which has been duly certified by the Respondent. Further, though assets were used for the purpose of the residents but since the ownership of the assets lies with the Society, depreciation is required to be provided for on the same as per provisions of Accounting Standard (AS 6). If the same has not been done by the Management of the Society, the Respondent should have made qualification in his report on this count.

Further, in respect of second leg of the allegation, the Committee noted that reasoning given by the Respondent for not providing depreciation on account of it being used for the pick and drop by the residents and not for any commercial purpose does not hold good as when the purchase and sale of vehicle was accounted for in the books of the Society, the depreciation is also required to be provided for on the same as per the requirements of the aforesaid AS-6.

5.2. The Committee perused the Balance Sheet of the Society as audited by the Respondent, details of fixed assets register have been annexed wherein kitchen equipment's have also been given under the heading of Plant & Machinery. It is observed that service revenue generated from the kitchen has not been included in the books of accounts of the Society on the plea that there was separate AOP for maintenance of the kitchen accounts. However, the Committee noted that kitchen equipment's has been included in the books of accounts of the Society. Thus, there appears some contradiction in the facts brought on record by the Respondent.

Further, the accounts of the Society should be prepared as a whole. Even if there was separate AOP for kitchen accounts, but since that AOP was also a part of the Society there should be consolidation of the same while preparing final accounts and revenue from the same should have been duly reflected in the books of accounts of the Society audited by the Respondent.

5.3 The Committee also noted that even though the Complainant has not quoted specific instances and documents in support of this allegation but the Respondent himself admitted about



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cash withdraws in excess of the prescribed limit. Thus, he is prima facie Guilty of Professional Misconduct on this charge for not making appropriate disclosure in his report on this count”.

6. The Committee perused the above facts and looking into all these aspects noted that the Respondent has not applied proper due diligence and flouted the relevant standards prescribed by the ICAI while preparing/certifying the financial statements of the Society.

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 name of the Respondent i.e. CA. Raj Seckhar M S (M.No.200772) be removed from the register of members for a period of 01 (One) month.

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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CONFIDENTIAL

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

[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]

Findings under Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

[PR-303/13-DD/293/2013/DC/510/16]

In the matter of:

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..... Complainant

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..... Respondent



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MEMBERS PRESENT:

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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:

Respondent : CA. Raj Sekhar M.S.

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 was repeatedly requested to show the asset value net of depreciation to reflect a true picture. The depreciation is calculated for the income tax computation but no depreciation is provided in the books.

1.2. The depreciation has not been provided on vehicle.



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1.3. Certain other allegations of the Complainant pertains to the activities of running the kitchen and accounting for the revenue and profits from running of the kitchen.

1.4. The promoter has withdrawn substantial amounts in cash from the Society's main account and as well as the sub accounts relating to services. Cash withdraw in excess of Rs. 5000 are prohibited by the byelaws of the Society but the Respondent failed to disclose the same.

Brief facts of the Proceeding:

2. The Committee noted that the Respondent alongwith Counsel was present and appeared before it. The office apprised the Committee that the Complainant vide letter/e-mail dated 04/05/2019 has sought adjournment in the case, however, same was rejected and informed him through mail dated 10/05/2019. In view of this, the Committee decided to proceed ahead in absence of the Complainant based upon papers available/merits of the case.

2.1 The Respondent was put on oath and he pleaded not guilty. On being asked, the Counsel for the Respondent submitted that the hearing may continued de-novo and he further requested the Committee that all his submissions made before the earlier Committee i.e. on 07.04.2017 will be taken on record and he has nothing fresh to add in this case.

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

FINDINGS :

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



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present as well as at earlier hearing i.e. on 07.04.2017 and provisions of law, the Committee gives its findings as under:-

4. The Committee noted that first two charges against the Respondent are related to depreciation not charged by the Society in the books and Respondent failed to report the same in Audit Report.

4.1 In this context, the Committee recorded the submissions of the Respondent and noted that on this issue he has clarified that the fixed assets of the Society are not used for any commercial /business purposes and are used only for residential purposes of the licensees. Moreover, the kitchen equipment have been given on use to the kitchen entity on replacement basis. Since the building and kitchen equipment are used for residential dwelling by the Senior citizens/ Licensees and admitted as Income under House Property, no depreciation has been provided/ calculated on the same by the Management either for book purpose or for income Tax purpose.

4.2 Further, he stated that the same were purchased in the name of the President and capitalized in the books of the Society. Depreciation has not been provided since the vehicle is being used for pick and drops by the residents and not for any commercial purpose. He also stated the sale proceeds on the sale of Vehicle were duly accounted for in the books and profit or loss on sale was reflected in the income and expenditure account.

4.3. The Committee noted that above submissions of the Respondent and was of the view that the assets have been duly recorded in the books of accounts of the Society as these are reflected in the Balance Sheet, which has been duly certified by the Respondent. Further, though assets were used for the purpose of the residents but since the ownership of the assets lies with the Society, depreciation is required to be provided for on the same as per provisions of Accounting Standard (AS 6). If the same has not been done by the Management of the Society, the Respondent should have made qualification in his report on this count.



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4.4 Further, in respect of send leg of the allegation, the Committee noted that reasoning given by the Respondent for not providing depreciation on account of it being used for the pick and drop by the residents and not for any commercial purpose does not hold good as when the purchase and sale of vehicle was accounted for in the books of the Society, the depreciation is also required to be provided for on the same as per the requirements of the aforesaid AS-6.

4.5 Thus, in the considered opinion of the Committee, the Respondent is Guilty of professional misconduct for not exercising due diligence while performing attest function of the Society.

5. The Committee noted that next allegation of the Complainant pertains to the activities of running the kitchen and accounting for the revenue and profits from running of the kitchen. The Committee took perusal of submissions of the Respondent in which he has claimed that the same is outside his audit scope. He produced a letter dated 20.05.2012 issued to him by Management of the Society mentioning that ***“Dhyanaprastha kitchen account is coming outside the scope of your Audit of Dhyanaprastha Foundation”***.

5.1 In this regard, the Committee perused the Balance Sheet of the Society as audited by the Respondent, details of fixed assets register have been annexed wherein kitchen equipment's have also been given under the heading of Plant & Machinery. It is observed that service revenue generated from the kitchen has not been included in the books of accounts of the Society on the plea that there was separate AOP for maintenance of the kitchen accounts. However, the Committee noted that kitchen equipment's has been included in the books of accounts of the Society. Thus, there appears some contradiction in the facts brought on record by the Respondent.

5.2 Further, the accounts of the Society should be prepared as a whole. Even if there was separate AOP for kitchen accounts, but since that AOP was also a part of the Society there should be consolidation of the same while preparing final accounts and revenue from the same



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should have been duly reflected in the books of accounts of the Society audited by the Respondent.

5.3 However, the same has not been done and the Respondent nor he has not made any qualification on this ground. Hence, he is Guilty of professional misconduct.

6. Further, in context of cash withdrawal in excess of Rs. 5,000/-, the Committee considered the submissions of the Respondent, in which he has admitted that to meet petty expenses withdrawals above Rs. 5000/- were made but it was not for a single transaction.

6.1. In respect of said allegation and counter defense offered by the Respondent, the Committee also noted that even though the Complainant has not quoted specific instances and documents in support of this allegation but the Respondent himself admitted about cash withdraws in excess of the prescribed limit. Thus, he is prima facie Guilty of Professional Misconduct on this charge for not making appropriate disclosure in his report on this count.

CONCLUSION :

7. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.



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(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 : 04-09-2019

PLACE : MUMBAI