

**DISCIPLINARY COMMITTEE [BENCH-III (2019-20)]**

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

**Findings under Rule 18(17) & 19(2) of the Chartered Accountants  
(Procedure of Investigations of Professional and Other Misconduct  
and Conduct of Cases) Rules, 2007**

File No. : PPR/P/60A/16/DD/101/INF/16-DC/661/17

**In the matter of :**

**CA. Ajay Pannalal Rander (M.No.111116)  
M/s. Ajay P. Rander & Co.  
344/1, Office No. 4 & 5,  
Vaishnavi Apartment,  
Near Modi Ganpati,  
Narayan Peth,  
Pune- 411030**

----- Respondent

**Members Present:**

**CA. Prafulla Premasukh Chhajed, Presiding Officer  
Smt. Anita Kapur, Member (Govt. Nominee)  
Shri Ajay Mittal, Member (Govt. Nominee)  
CA. Manu Agrawal, Member**

**Date of Final Hearing: 20<sup>th</sup> – 21<sup>st</sup> August, 2019 (decided on 31<sup>st</sup> October 2019)**

**Place of Final Hearing: Mumbai**

**Parties Present:**

- (i) CA. Ajay Pannalal Rander – Respondent**
- (ii) CA. Shashikant Barve – Counsel for Respondent**

**Allegations of the Principal Director of I-Tax (Inv.), Pune:**

1. A survey action under section 133A of the Income Tax Act, 1961 was carried on 26.08.2015 of **Varron Industries Private Limited** (hereinafter referred to as “**VIPL**”) and **Varron Aluminum Private Limited** (hereinafter referred to as “**VAPL**”). They were engaged in the business of aluminum forging and machined Components, aluminum alloys, steel forging and copper alloys. During the survey proceedings, it was observed that VIPL & VAPL had uploaded two different audited financial statements with ROC and ITD which were signed by the Directors of the Company at the relevant time, whereas for some years, the balance sheet with ROC and ITD were signed by different auditors namely M/s. N.S. Purohit & Co and the Respondent.

However, the survey was also carried out at the office premises of the two auditors namely M/s. N.S. Purohit & Co and the Respondent, CA Ajay P. Rander on 26.08.2015 and their statements were recorded wherein Shri N.S. Purohit denied having signed balance sheet uploaded by the Company with ROC but the Respondent not only admitted having signed two different sets of accounts statements but also mentioned about the third set prepared for submission to Banks. Accordingly, it was alleged against the Respondent that he had signed two/three sets of final accounts of both the companies and, thus, acted in connivance with the promoters of the group in creation of fraudulent accounts of statements which amounted to gross violation of professional ethics as it helped the assessee in evasion of taxes.

**Proceedings:**

2. The Committee noted that the Respondent, along with his Counsel, was present on 21<sup>st</sup> August 2019\_during the hearing of the matter. Since it was the first hearing in the matter, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges be read out or these could be taken as read. The Respondent stated that he was aware of the allegations raised against him and the same might be taken as read. On being asked as to whether he pleaded guilty, he pleaded not guilty and opted to defend his case. Thereafter, the Counsel for Respondent made his oral submission to defend the case. The Committee, thereafter, examined the Respondent in the matter.

After hearing the submissions of the Counsel for the Respondent, the Committee directed the Respondent to submit the following documents within 60 days from the date of hearing:

- (i) Copy of the retraction filed by the Respondent to the Income Tax Department
- (ii) Copy of the acknowledgement of submitting his affidavit to the Income Tax Department in September, 2015
- (iii) Outcome of the Police Complaint filed by the Respondent in the matter.

Accordingly, on consideration of all the documents/information available on record as well as written/oral submissions made by the Respondent, the hearing in the matter was concluded and the judgment was reserved.

3. On 31<sup>st</sup> October, 2019, the Committee noted that the Respondent had submitted the requisite documents vide his letter dated 30<sup>th</sup> Sept, 2019. The Committee, thereafter, based on the documents available on record as well as the oral and written submissions and also circumstances of the case decided on the matter.

**Findings of the Committee:**

4. The Committee noted that the allegation against the Respondent was that the Respondent had signed two different balance sheets submitted to ROC and Income Tax Department in respect of two Companies namely, VIPL and the other related Company VAPL for the financial year 2012-13 and 2013-14 in which significant differences were found in many items of balance sheet as well as P&L A/c. It was also mentioned that the Respondent had admitted to be aware of some proprietary concerns created by the group directors for making only paper transactions with the stated companies.

5. It was noted that the said allegations were raised due to existence of multiple sets of financial statements which were bearing the signature of the Respondent in the capacity of being the auditor of said companies as well as his Statement on Oath wherein he had accepted to have known the existence of three sets of financial statements which he accepted to be against ICAI guidelines. Though, the Respondent had filed police complaint in Sept 2015, but nothing concrete was brought on record before Director (Discipline) in his defense to prove that his digital

signature were forged except an affidavit by Mr. Shrikant Sawaikar, promoter of the Companies wherein he took the responsibility of filing ROC and I Tax Returns.

6. The Committee noted the submissions made by the Respondent before it wherein he submitted various other evidences in his defense to show that he had taken timely steps when he came to know about such misdoing after Income Tax survey as he resigned as Auditor of both companies within two days and approached all appropriate stakeholders to bring to their notice the events that happened and indicated correct figures to be used. He further brought on record copy of affidavit prepared on 04<sup>th</sup> September, 2015 i.e. immediately after one week of survey/statement duly notarized wherein it was clearly mentioned that his statement was taken by Income Tax Authorities under coercion and influence and also that he had not signed more than one set of the financial statements for any year. He also stated that he had duly informed State Bank of India immediately after one week of the survey vide his letter dated 04<sup>th</sup> September 2015 informing the Bank to take a note of only the correct figures of the financial statement signed by the Respondent while stating that the facts about the Income Tax Survey and the two different sets of financial statements as alleged. Further, he made complaint to Police authority on 15<sup>th</sup> September 2015 requesting police authorities to conduct investigation of forged signatures of Respondent on certain financial statements and initiate appropriate actions against the wrong doers. He also brought on record copy of letter dated 24<sup>th</sup> September 2015 written by him to Income Tax Department immediately after three weeks of survey requesting Income Tax Department to provide copy of recorded statement of Respondent himself as he had not received the same. Further, copy of Affidavit of Shirkaant Sawaiikar, Director of both Companies, dated 30<sup>th</sup> November, 2015 duly notarized was submitted by the Respondent in which it was clearly stated that the revised Financial Statements of both the Companies were filed without knowledge and information of the Respondent in order to avail higher credit facilities and that the ROC Returns were not filed by Respondent but by different Company Secretary based on financial statements given by the Companies under their instructions which were not identical to Financial Statements uploaded with Income tax Authorities.

7. The Committee in this case noted that the Respondent had also brought on record Copies of letters dated 15<sup>th</sup> December 2017 written by the Respondent to Company Secretary of VIPL and VAPL wherein he had requested the details of uploading Audited financial statement on website of ROC for financial year 2012-13 along with the replies received from him. In the said reply dated 19<sup>th</sup> December 2017, the Company Secretary had confirmed that he uploaded the audited Financial Statements of both Companies for FY 2012-13 on website of ROC from his own office for which the digital Signatures of the Respondent were provided by the client Companies to him. The Committee also noted that vide letter dated 20<sup>th</sup> October 2014, Shri Shirkaant Sawaikar, the Director of both Companies provided him the Audited financial statement and soft copy of Digital Signature of Respondent for filing of ROC Return for financial year 2012-13 which was on record. Thus, the Committee was convinced that the Financial Statements of both the companies for the F.Y. 2012-13 were not uploaded on ROC website from office premises of the Respondent and also both the financial statements uploaded and the Digital Signature of Respondent used for uploading the statements were given by client-Companies directly to their Company Secretary without knowledge of the Respondent.

8. The Committee further noted that the Respondent had brought on record a copy of the affidavit of the Director, Shri Shrikaant Sawaikar dated 30<sup>th</sup> November, 2015 where at clause (8) he had stated as under:

*“That, Ajay Rander have audited financial statements, which have been uploaded to Income Tax Authorities and they have also audited the same financial statement for statutory audit under Companies Act. At a later stage, we revised the financial statements on our own initiative and cause, without knowledge and information of Ajay Rander, Chartered Accountant or his team members. Filing of Revised sets of statement with ROC and bankers was made by us in order to avail various credit facilities at higher level which was the business need of my group , in order to repay then existing LC outstanding and business liabilities of our enterprises.”*

9. Thus, on perusal of the affidavit of the Director of both the Companies along with the reply of the Company secretary available on record, it is evident that the copies of the Financial statements uploaded on the ROC website were not the copies which

were certified by the Respondent and were modified/revised on their own by the Directors to suit their financial requirements.

10. The Committee further noted the submission of the Respondent that he was compelled to sign the statements in a printed form prepared by the concerned I.T. Officials by using intimidating tactics and thus statements were taken without his consent which could neither be made by him as a professional nor could be relied upon by anybody. As regard the statement on oath given by the Respondent before the Income Tax authorities, the Committee noted that the Respondent had pointed out vide his affidavit dated 4<sup>th</sup> September 2015 and his letter dated 1<sup>st</sup> June 2016 that his Statement was taken under coercion and undue pressure and the information thus submitted indicated retraction of his recorded Statement during Survey u/s133A of the Income Tax 1961 which was submitted by the Director of the Companies to the Tax Department. In order to strengthen his defense in the matter, the Respondent also submitted certain instances which according to him were incorrectly taken as his statements by the tax department due to which he had to retract the same. The Respondent in his written submission dated 14<sup>th</sup> January 2018 submitted that wrong claims were made by the Informant as the ROC Returns for both the Companies were not filed at the time of raising allegations against him in June 2016 before the Disciplinary Directorate. He also stated before the Committee that the statement was dictated by the authorities and typed by one of his staff person which were factually incorrect as question nos. 26 to 28 at page A-415 & A-416 of the *Prima Facie* Opinion related to audit of certain other companies for F.Y. 2014-2015 which were not audited by the Respondent and had not issued any certificate also. The Committee further noted that the Respondent has also produced an Affidavit of Mr. Lalit, which stated that:

*“He was working as an accountant with M/s Ajay Rander & Co. during the period 2014 to July, 2018. He was present in the office of M/s Ajay Rander & Co. on 26/08/2015, 27/08/2015, 28/08/2015, when there was a survey by investigation wing of the Income Tax Department, Pune. The survey team was accompanied also by police authorities. The statement of CA Ajay Rander was recorded on all the three days, in the night. On first day of Survey on 26/08/2015, CA Ajay Rander & Mr. Jeet Rathi (office Staff) were typing statements of CA Ajay Rander in form of the Questions and Answer asked by*

*Income Tax Authorities (partly). While on 27/08/2015 and 28/08/2015, Mr. Jeet Rathi was typing the Questions and Answer completely as dictated by the Income Tax Authorities. Further, CA. Ajay Rander was not present while typing in cabin but was made to sit outside the cabin but in the office premises, when Jeet Rathi was typing the Question and Answers on 27/08/2015 & 28/08/2015 completely as dictated by the Income Tax Authorities. On all the three days, CA. Ajay Rander had to sign the statements immediately as directed after typing as it was late night and he was not permitted to read his statements while signing.”*

11. The Committee during the hearing had asked the Respondent to submit on record the letter acknowledging the receipt of the retraction affidavit by the Income Tax department which was duly submitted by him as vide letter dated 16<sup>th</sup> September 2019, the Department had confirmed that on verification, copy of the letter dated 4<sup>th</sup> September 2015 of the Director, Shri Shrikaant Sawaiikar along with the copy of the affidavit of the Respondent was available in the records of Varron Group cases.

12. The Committee further noted that the Respondent had submitted on record a copy of the search report from an independent practicing Company Secretary dated 4<sup>th</sup> January 2018 wherein it was confirmed that ROC return for F.Y. 2013-14 for VAPL was filed on 5<sup>th</sup> October 2016 while no return for F.Y. 2013-14 for VIPL was filed till then and also that the figures for 2013-14 for VAPL filed on 5<sup>th</sup> October 2016 on ROC website were exactly matching with those as filed on Income Tax web site. The Respondent had further brought on record the reply of the Informant department dated 14<sup>th</sup> December 2017 received by him (Pg 94 – Annexure to WS dated 14<sup>th</sup> Jan 2018) under RTI Act wherein it was confirmed by the department that it neither had any document in its possession to support their claim as made out in the allegation letter that the financial statements as enclosed to it were actually been so uploaded on ROC website nor it had in its possession the financial statements of both the Companies for F.Y. 2012-13 and 2013-14 bearing the original signatures of the Respondent as the statutory auditor .

13. Thus, the Committee in light of the documents/ information available with it was of the view that there were sufficient evidences on record to establish that the set of

financial statements uploaded on ROC website were not the one certified by the Respondent and since he was made victim of unscrupulous acts of the promoters of the Company, accordingly, the Respondent is held not guilty in respect to the charged alleged in the extant matter.

**Conclusion:**

14. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is held **NOT GUILTY** of Professional Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule and Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with section 22 of the Act.

15. The Committee accordingly passes Order for closure of this case against the Respondent.

**Sd/-**  
**CA. Prafulla Premsukh Chhajed,**  
**Presiding Officer**

**Sd/-**  
**Smt. Anita Kapur**  
**Member, (Govt. Nominee)**

**Sd/-**  
**Shri Ajay Mittal,**  
**Member (Govt. Nominee)**

**Sd/-**  
**CA. Manu Agrawal**  
**Member**

**Date: 15<sup>th</sup> January, 2020**  
**Place: New Delhi**