



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/ 267/16/DD/98/INF/16/DC/687/2017]

**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. Manish Jain (M. No. 424326) in Re:**  
193, Mahaveer Marg,  
Opp. Old SBI  
UJJAIN-456 001

**[PPR/ 267/16/DD/98/INF/16/DC/687/2017]**

**MEMBERS PRESENT:**

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, 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 06.08.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Manish Jain (M. No. 424326)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication dated 26<sup>th</sup> 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 16<sup>th</sup> December, 2019 at New Delhi.

3. Further, on 16<sup>th</sup> December, 2019, the Committee noted that the Respondent was present and made submissions on the findings of the Committee holding him Guilty of professional misconduct within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.



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4. The Committee noted that there is one charge against the Respondent in which he has been held prima facie guilty, these are as under:-

4.1 CA. Amitabh Gupta acted as an examiner of Paper 7A of Intermediate (IPC) examination held in November, 2014. He had given away 80 answer books to the Respondent for checking purpose to be done at his home. Both the examiner and the checker (Respondent) have violated the instructions given to them (which clearly states that the checking work is to be done at the place of examiner only and not to take away the Answer Books to Checker's resident/office.

5. The Committee noted the findings contained in Report of the Disciplinary Committee dated 06/08/2019 holding the Respondent guilty of professional misconduct, which are as under:-

5.1 "On perusal of documents on record and in law, and considering oral submissions from the respondent at the time of hearing the Committee noted that since there was a strict guidelines of Examination Committee of the ICAI dated 4<sup>th</sup> December, 2014 that "The function required to be performed by a checker by himself/herself personally and at the place of the examiner only [Neither the assistance of any other person shall be taken away from the place of the examiner, under any circumstances." Therefore CA. Manish Jain, the Respondent has contravened the guidelines issued by Examination Committee of the Institute and hence taking away answer sheets at a place other than place of the Examiner by him is violation of guidelines issued by Examination Committee of the ICAI."

6. The Committee perused the above facts and submissions of the Respondent and looking into all these aspects, the Committee noted that the Respondent was the checker and CA. Amitabh Gupta was the main examiner and due to violations of guidelines of Examination Committee of the ICAI by the Respondent, the image of the Institute has been spoiled in the eyes of general public and the future of thousands of students was at stake. Hence, the Committee was of the opinion that it is not just a mistake on the part of the Respondent, but it is



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an unprofessional behavior at his part and he failed to act as per specific guidelines issued for him by the ICAI.

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, the material on record before it, the Committee ordered that the Respondent i.e. CA. Manish Jain (M. No. 424326) 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

DATE : 16/12/2019

PLACE : NEW DELHI



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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(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No. : [PPR/267/16/DD/98/INF/16/DC/687/2017]**

**In the matter of:**

**CA. Manish Jain (M. No. 424326) in Re:  
193, Mahaveer Marg,  
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**.....Respondent**

**MEMBERS PRESENT:**

**CA. Atul Kumar Gupta, Presiding Officer  
CA. Amarjit Chopra, Member (Govt. Nominee)  
CA. P. Rajendra Kumar, Member  
CA. Chandrasekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 09.07.2019**

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

**PARTIES PRESENT:**

**Respondent : CA. Manish Jain**



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## **Charges in Brief:-**

1. The Committee noted that in the instant case the respondent in the capacity of acting a checker for answer books of examination department has not performed his duties and violated the instructions of the Examination Department of the Institute by taking away answer books away from the place of Examiner and which was misplaced by the respondent.

1.1 In this case, a reference was received from the Examination Department of the ICAI along with other related documents containing charges against the Respondent wherein CA Manish Jain acted as Checker of paper 7A of IPC examination held in Nov14. The Respondent has been given answer sheets by the Examiner (CA Amitabh Gupta) for the checking purpose to be done at a place other than Examiner's place.

1.2 In this regard instructions issued by examination department on 4<sup>th</sup> December 2014 at the time of appointment and annexure "A" titled as Eligibility to become a Checker, the specific instructions are as follows:

"The function required to be performed by a checker by himself/herself personally and at the place of the examiner only [Neither the assistance of any other person shall be taken away from the place of the examiner, under any circumstances": (Para-II at A-38). Accordingly, respondent was alleged to be guilty of professional misconduct falling within Clause (1) of part II of the second schedule.

2. On the day of hearing, the Committee noted that since it is an information case the Complainant was not required to be present. The Respondent appeared before the Committee. The Respondent was put on oath. On the request of respondent charges was being read before him. On being asked to the Respondent whether he pleads guilty, he replied in negative.



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Thereafter, the Committee sought that whether he wish to proceed with his defence.

3. The respondent in his defence submits that due to illness of his elder sister who was having uterus cancer at 4<sup>th</sup> stage was able to concentrate on his day to day work. On the night of 27 December 2014, the day when he was requested to take away the copies from the examiner (CA Amitabh Gupta) at his premises as the deadline for returning the answer sheets was reaching. The examiner provided answer sheets to the respondent who, during travel on bike, lost the bundles of answer sheets. The Respondent also stated before the Committee that he made all efforts to retrieve those lost bundles and also intimated local police for the same and next morning intimated the examiner CA Amitabh Gupta about the incidence. He further accepted his mistake and pleaded before committee that circumstances were beyond his control in such mis-happening.

## **Findings of the Committee**

4. On perusal of documents on record and in law, and considering oral submissions from the respondent at the time of hearing the Committee noted that since there was a strict guidelines of Examination Committee of the ICAI dated 4<sup>th</sup> December, 2014 that “The function required to be performed by a checker by himself/herself personally and at the place of the examiner only [Neither the assistance of any other person shall be taken away from the place of the examiner, under any circumstances.” Therefore CA. Manish Jain, the Respondent has contravened the guidelines issued by Examination Committee of the Institute and hence taking away answer sheets at a place other than place of the Examiner by him is violation of guidelines. Clause(1) of part II of the Second Schedule states that :

*“A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he— (1) contravenes any of the provisions*



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*of this Act or the regulations made thereunder or any guidelines issued by the Council;”*

**Conclusion**

5. Thus, upon consideration of all facts and records and in terms of reasoning as above, in considered opinion of the Committee, CA Manish Jain the Respondent is **GUILTY** of “Misconduct” falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountant Act, 1949 read with Section 22 of the said Act.

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

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

**Sd/-**  
**(CA. P. RAJENDRA KUMAR)**  
**MEMBER**

**Sd/-**  
**(CA. CHANDRASEKHAR VASANT CHITALE)**  
**MEMBER**

**DATE : 06-08-2019**  
**PLACE : New Delhi**