



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/ 267A/16/DD/131/INF/16/DC/699/2017]

**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. Amitabh Gupta (M. No. 075673) in Re:
301, Anmol Darshan,
9/1, New Palasia
INDORE-452 010

[PPR/ 267A/16/DD/131/INF/16/DC/699/2017]

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. Amitabh Gupta (M. No. 075673)** (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 26th 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 16th December, 2019 at New Delhi.
3. Further, on 16th 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 The Committee noted that in the instant case the respondent in the capacity of acting an examiner for answer books of examination department has not performed his duties and violated the instructions by giving away answer books to CA Manish Jain (exam checker) and to take them away to his residence/office and which was misplaced by the checker.

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 the oral submission from the respondent at the time of hearing the Committee noted that since there was a guideline of Examination Committee of the ICAI vide letter no 13-CA(Exams)/Intermediate(IPC)/N-2014/66 dated November 21,2014; which provides that answer books cannot be carried out to any place other than Examiners premises under any circumstances. CA. Amitabh Gupta i.e. the Respondent has disregarded guidelines issued by the Examination Committee of the Institute and gave away answer sheet to exam checker to be carried away from the place of the Examiner is violation of guidelines and also violation of Clause(1) of part II of the Second Schedule.”*

6. The Committee perused the above facts and submissions of the Respondent and looking into all these aspects, the Committee noted that the 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 genera 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 an unprofessional behavior at his part that 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.



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7. Thus, keeping in view the facts and circumstances of the case, the material on record before it, the Committee ordered that the name of the Respondent i.e. CA. Amitabh Gupta (M. No. 075673) be removed from register of members for a period of 03 (three) months and a fine of Rs. 25,000/- (Rupees Twenty Five 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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[PPR/ 267A/16/DD/131/INF/16/DC/699/2017]

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/ 267A/16/DD/131/INF/16/DC/699/2017]

In the matter of:

**CA. Amitabh Gupta (M. No. 075673) in Re:
301, Anmol Darshan,
9/1, New Palasia
INDORE - 452 010**

.....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. Amitabh Gupta



Charges in Brief:-

1. The Committee noted that in the instant case the respondent in the capacity of acting as an examiner for answer books of examination department has not performed his duties and violated the instructions by giving away answer books to CA Manish Jain (exam checker) and to take them away to his residence/office and which was misplaced by the checker.
 - 1.1 In this case a reference was received from examination department of ICAI along with other related documents containing allegations against the CA Amitabh Gupta (Respondent) who acted as examiner of paper 7A of IPC examination held in Nov 14. Respondent has given answer sheets to CA Manish Jain for the checking to be done at checker's home.
 - 1.2 In this regard instructions issued by examination department on keeping the view the nature of task given to examiner were strictly confidential. Also the instructions issued to Examiner by Examination department of the ICAI vide letter no 13-CA(Exams)/Intermediate(IPC)/N-2014/66 dated November 21,2014 stated that :-
"You should not carry the answer books from one place to another for evaluation and also should not undertake the evaluation work while travelling e.g. by Train, Air, etc." Thus the act of the respondent allowing the Checker CA Manish Jain to perform evaluation at any other place shows the violation of guidelines framed by the institute for examination purposes. Accordingly, the Director Discipline opined that Respondent is guilty of professional misconduct falling within Clause (1) of part II of the second schedule of Chartered Accountants Act, 1949.
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 request of respondent charges were being read before him. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee directed him to proceed with his defence.



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3. The respondent in his defence submits that Mr. Manish Jain on repetitive instance was requesting to provide him the answer sheets to be taken away by him. On the night of 27 December 2014 day when CA. Manish Jain requested to take away the copies from the Respondent (CA. Amitabh Gupta) at his premises as the deadline for returning the copies is reaching and due to the illness of CA. Manish Jain's elder sister who was having uterus cancer at 4th stage he would not able to concentrate on his day to day work and this assignment is reaching its deadline. The Respondent provided answer sheets to CA. Manish Jain, who on bike during the travel lost the bundles. Respondent also stated before the committee that the Respondent was intimidated by CA. Manish Jain next morning but Respondent accepted that it was failure on his part that the Respondent failed to disclose such a crucial matter immediately to the Institute or the any of the concerned official of the Institute after the matter was brought to his notice by CA. Manish Jain. He further accepted his mistake and pleaded before committee that circumstances are beyond his control in such mis-happening.

Findings of the Committee

4. On perusal of documents on record, and the oral submission from the respondent at the time of hearing the Committee noted that since there was a guideline of Examination Committee of the ICAI vide letter no 13-CA(Exams)/Intermediate(IPC)/N-2014/66 dated November 21,2014;which provides that answer books cannot be carried out to any place other than Examiners premises under any circumstances.CA. Amitabh Gupta i.e. the Respondent has disregarded guidelines issued by the Examination Committee of the Institute and gave away answer sheet to exam checker to be carried away from the place of the Examiner is violation of guidelines and also violation of Clause (1) of part II of the Second Schedule that states as under :

“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 of this Act or the regulations made there under or any guidelines issued by the Council;”



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Conclusion

5. Thus, upon consideration of all facts and records and in law and in terms of reasoning as above, in the considered opinion of the Committee, 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