



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PR/76/14/DD/96/14/DC/554/17]

**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:

Shri Manohar D. Bhoot,
Deege Estate,
Deveranker Nagar,
Badnera Road,
Amravati – 444 605

-Vs.-

CA. Bhavya Garg (M.No. 124759)
Prayag Chand Hariram,
Ralles Road,
Amravati – 444 601

[PR/76/14/DD/96/14/DC/554/17]

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 06.08.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Bhavya Garg (M. No. 124759)** (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 December, 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 07th January, 2020 at Mumbai.

3. Further, on 07th January, 2020, the Committee noted that the Respondent was not present and even there was no intimation for her presence, nor she has made any submission on the findings of the 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 two charge against the Respondent in which she has been held guilty by the Committee, these are as under:-

4.1 The first charge relates to signing of two balance sheets of M/s. Deegee Cotsyn Pvt. Ltd. (hereinafter referred to as the “Company”) for the year 2011-12 having different figures of secured and unsecured loans.

4.2 The Second charge was that the Respondent issued a certificate for capital infusion of Rs.3.10 crore which was later converted into unsecured loan in the subsequent certificate.

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 “The alleged financial statements have duly been signed by the Directors of the Company and the Respondent and there was no effort made by the Respondent to withdraw the said financial statements from the bank so submitted. Moreover, though the Respondent claimed that one set of the Balance Sheet as on 31st March, 2012 was stolen from her office and her signature has been forged, yet it is noted that the Respondent has not filed any police complaint in this regard. Further, the Respondent could not come out with any specific reasoning for such a huge difference in two balance sheets which cannot be termed as clerical mistake / omissions. Even the Committee found that in first set of financial statements, the value



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of secured loan was Rs.73.33 crore whereas in the another set, the amount is appearing as Rs.104.76 crore which is having a material difference of Rs.31 crore and reasons of which was not explained by the Respondent.

5.2 The Committee noted that there was no withdrawal of earlier certificate or new certificate overriding the earlier certificate so issued which reflects the carelessness in conduct of Respondent. Though the Respondent submitted that due to mental agony she was facing at her in laws house and the medical condition of her husband, she was not in a position to concentrate on the professional assignment. The Committee though having a sympathetic view but the Respondent being a professional has to rise above one's self while doing professional duties. The financial statements so audited and the certificates are supposed to be relied upon by the various stakeholders and behavioral issues cannot be an excuse for the same".

6. The Committee perused the above facts and looking into all these aspects noted that it is an established fact that the Respondent has certified two sets of financial statements of the Company showing huge differences in the amount of secured and unsecured loans and same was submitted to public entity i.e. UCO bank. Moreover, same mistake was repeated by the Respondent by issuing two certificates dated 09/10/2012 one with certification that the Company has infused share capital of Rs. 3.10 crore and second one with narration that the Company has infused secured loan of same amount i.e. Rs. 3.10 crores.

In view of above, the Committee is of the opinion that the Respondent has not exercise any due diligence nor she applied any accounting concept/guideline/standard while performing said attest function of the Company. Moreover, it is not once that she is gross negligence in her professional duties but repeatedly she is negligent by issuing certificates to same Company on same with different explanation.

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 name of the Respondent i.e. CA. Bhavya Garg (M. No. 124759) be removed from register of members for a period of one (01) year.

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 : 07/01/2020

PLACE : MUMBAI



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CONFIDENTIAL

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

[Constituted under Section 21B of the Chartered Accountants 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

Ref. No. [PR-76/14-DD/96/14/DC/554/17]

In the matter of:

**Shri Manohar D. Bhoot,
Deege Estate,
Deveranker Nagar,
Badnera Road,
Amravati – 444 605**

.....Complainant

-Vs.-

**CA. Bhavya Garg (M.No.124759),
Prayag Chand Hariram,
Ralles Road,
Amravati – 444 601**

.....Respondent

MEMBERS PRESENT:

**CA. ATUL KUMAR GUPTA, PRESIDING OFFICER,
CA. AMARJIT CHOPRA, GOVT. NOMINEE,
CA. RAJENDRA KUMAR P, MEMBER,**

DATE OF FINAL HEARING : 08.05.2019

PLACE OF FINAL HEARING : ICAI Tower, Bandra Kurla Complex, Mumbai

PARTIES PRESENT:

Complainant : Not Present

Respondent : Not Present



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Findings of the Committee

1. On the day of hearing held on 8th May, 2019, the Committee noted that neither the Complainant nor the Respondent was present. The Complainant vide his letter dated 03rd May, 2019 stated that there are certain other works which he has to entertain on the date of hearing. The Respondent vide his e-mail dated 3rd May, 2019 stated that whatever she wants to submit she has already submitted before the Disciplinary Committee. The Respondent also requested the Committee to decide the case based on submissions made on record. In view of above and since the Complainant was not present without any valid reasons as mentioned in Rule 18(18) of the Chartered Accountants (Procedures of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee decided to continue with the proceedings ex-parte. Thereafter, the Committee perused the documents on record and after perusal, concluded the hearing based on merits of the case.

2. The Committee noted that in the prima facie opinion prepared by the Director (Discipline), there were two charges in which the Respondent was held prima facie guilty from all the allegations placed by the Complainant. The first charge relates to signing of two balance sheets of M/s. Deegee Cotsyn Pvt. Ltd. (hereinafter referred to as the “**Company**”) for the year 2011-12 having different figures of secured and unsecured loans. The Second charge was that the Respondent issued a certificate for capital infusion of Rs.3.10 crore which was later converted into unsecured loan in the subsequent certificate.

3. For the first charge, as given in prima facie opinion, it is noted that there were following major differences in the two financial statements audited by the Respondent:-



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- a) In one set of annual accounts for the year ending 31st March, 2012, under schedule 3, Secured loan amount is appearing as Rs.733,300,598.81 while in the other set of annual accounts of the same period, the amount is appearing as Rs. 1,047,677,583.81.
- b) In the one set of annual accounts for the year ending 31st March, 2012, under schedule 4 figure of unsecured loan is shown as Rs. 324,410,527/- while in the another set of accounts, the same is shown as Rs. 100,33,542/- .
- c) In the one set of annual accounts for the year ending 31st March, 2012, under schedule 4, unsecured loan from P.H. Combines are shown as Rs. 324,208,452/- while in the another set of accounts, the same is shown as Rs. 9,831,467/-.

3.1 In respect of above charge, the Respondent submitted that after signing the first set of financial statements, she found some mistake of grouping in secured and unsecured loans in the financial statement but before getting the said mistake rectified, the financial statements was submitted to UCO bank by the Complainant. In this regard, the Committee noted that the alleged financial statements have duly been signed by the Directors of the Company and the Respondent and there was no effort made by the Respondent to withdraw the said financial statements from the bank so submitted. Moreover, though the Respondent claimed that one set of the Balance Sheet as on 31st March, 2012 was stolen from her office and her signature has been forged, yet it is noted that the Respondent has not filed any police complaint in this regard. Further, the Respondent could not come out with any specific reasoning for such a huge difference in two balance sheets which cannot be termed as clerical mistake / omissions. Even the Committee found that in first set of financial statements, the value of secured loan was Rs.73.33 crore whereas in the another set, the amount is appearing as Rs.104.76 crore which is having a material difference of Rs.31 crore and reasons of which was not explained by the Respondent.



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3.2 The Committee has gone through the provisions of clause (7) of Part I of Second Schedule of the Chartered Accountants Act, 1949 which states that a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he “*does not exercise due diligence, or is grossly negligent in the conduct of his professional duties*”. In view of above facts and reasoning, the Committee is of the view that the Respondent was grossly negligent in performing his duties.

4. For the second charge, it is noted that the same relates to issuing a certificate reflecting infusion of share capital of Rs.3.1 crore whereas in another certificate of the even date was issued reflecting same amount as unsecured loan. The Committee noted that there was no withdrawal of earlier certificate or new certificate overriding the earlier certificate so issued which reflects the carelessness in conduct of Respondent.

4.1 Though the Respondent submitted that due to mental agony she was facing at her in laws house and the medical condition of her husband, she was not in a position to concentrate on the professional assignment. The Committee though having a sympathetic view but the Respondent being a professional has to rise above one’s self while doing professional duties. The financial statements so audited and the certificates are supposed to be relied upon by the various stakeholders and behavioural issues cannot be an excuse for the same. Hence, the Committee held that the Respondent is guilty of professional misconduct falling within the meaning of clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

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



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Sd/-

(CA. ATUL KUMAR GUPTA)

PRESIDING OFFICER

Sd/-

(CA. AMARJIT CHOPRA)

GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)

MEMBER

DATE :06.08.2019

PLACE : NEW DELHI