



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

(Set up by an Act of Parliament)

[PR/24/16/DD/59/16/DC/784/18]

**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. Dinesh B. Gandhi**

103 & 104, First Floor

“Sangameshwari”

Sub Plot No. 36A,

Survey No. 120 A+B,

Opp. P.L, Deshpande Garden,

Navshya Maruti Mandir Lane,

Off Sinhgad Road

**PUNE – 411 030**

**-Vs.-**

**CA. Sachin RamchandraParkale (M.No.146960)**

Office No. 303-304, Pride Icon

Near Columbia Asia Hospital

Kharadi

**PUNE – 411 014**

**[PR/24/16/DD/59/16/DC/784/18]**

**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. Sachin Ramchandra Parkale (M.No.146960)** (hereinafter referred to as the **Respondent**) was **GUILTY**



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of professional misconduct falling within the meaning of Clause (8) of Part I of First Schedule and 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 19<sup>th</sup> 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 07<sup>th</sup> January, 2020 at Mumbai.

3. Further, on 07<sup>th</sup> January, 2020, 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 (8) of Part I of First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

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

4.1 The Complainant has alleged that the Respondent conducted audit under the Maharashtra State Value Added Tax Act, 2002 without obtaining no objection from him as during the previous year he had conducted such audit.

4.2 The complainant further alleged that the Respondent should not have conducted the audit when audit fee was due to him by the auditee.

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 Committee during the hearing on being enquired from the Respondent about the mode of sending a communication, the Respondent informed that the same was sent by DTDC courier.



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When the Committee further enquired from the Respondent that can he prove the delivery of such a letter to which the Respondent replied that he did not have proof of delivery.

5.2 The Committee noted that the Respondent accepted the audit assignment without properly communicating with the previous auditor, the Committee decided to hold the Respondent Guilty of professional misconduct falling within the meaning of Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

5.3. In respect of second charge related to accepting audit without payment of outstanding audit fees to previous auditor, the Committee noted that though the Respondent stated that partly payment was made in cash yet, he could not bring on record any documentary evidence to show that outstanding audit fees was paid fully to the Complainant before accepting the audit. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

6. The Committee perused the above facts and submissions of the Respondent and looking into all these aspects, the Committee noted that it is apparent that the Respondent has not communicated with Complainant as per the provisions laid down in the Chartered Accountant Act, 1949. Further, he has also violated the guidelines of Chapter VII of the Council General Guidelines, 2008 as he has accepted the audit assignment without ensuring that undisputed professional fees of previous auditor had been fully paid.

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 Respondent i.e. CA. Sachin Ramchandra Parkale (M.No.146960) be reprimanded 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 : 07/01/2020

PLACE : MUMBAI



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[PR/24/16/DD/59/16/DC/784/18]

**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-24/16-DD/59/16-DC/784/18**

**In the matter of:**

**CA. Dinesh B. Gandhi**

103 & 104, First Floor

“Sangameshwari”

Sub Plot No. 36A,

Survey No. 120 A+B,

Opp. P.L, Deshpande Garden, Navshya Maruti Mandir Lane,

Off Sinhgad Road

**PUNE – 411 030**

**.....Complainant**

**Vs**

**CA. Sachin RamchandraParkale (M.No.146960)**

Office No. 303-304, Pride Icon

Near Columbia Asia Hospital

Kharadi

**PUNE – 411 014**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. ATUL KUMAR GUPTA, PRESIDING OFFICER**

**CA. AMARJIT CHOPRA, GOVT. NOMINEE**

**CA. RAJENDRA KUMAR P, MEMBER**

**DATE OF FINAL HEARING : 8<sup>th</sup> May, 2019**

**PLACE OF FINAL HEARING : ICAI Tower, BandraKurla Complex, Mumbai**



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[PR/24/16/DD/59/16/DC/784/18]

## **PARTIES PRESENT:**

<b>Complainant</b>	:	<b>CA. Dinesh B. Gandhi</b>
<b>Counsel for the Complainant</b>	:	<b>Shri Sunil Ganoo, Advocate</b>
<b>Respondent</b>	:	<b>CA. Sachin R. Parkale</b>
<b>Counsel for the Respondent</b>	:	<b>Shri Sharad Vaze, Advocate</b>

## **Findings of the Committee**

1. On the day of hearing held on 8<sup>th</sup> May, 2019, the Committee noted that the Complainant and the Respondent were present along with their respective Counsel. The Complainant and the Respondent were put on oath. On being enquired from the Respondent as to whether he is aware of the charges levelled against him, the Respondent replied positively and pleaded not guilty. The Counsel(s) for the Complainant and the Respondent made their submissions. The Committee posed questions to the Complainant and the Respondent. After hearing the final submissions of the Counsel(s) for the Complainant and the Respondent, the Committee decided to conclude the hearing in the above matter.

2. The Committee noted that both the complainant and the Respondent are Chartered Accountants in practice. The Complainant has alleged that the Respondent conducted audit under the Maharashtra State Value Added Tax Act, 2002 without obtaining no objection from him as during the previous year he had conducted such audit. The complainant further alleged that the Respondent should not have conducted the audit when audit fee was due to him by the auditee.

3. The Respondent brought to the notice of the Committee that he has sent a letter dated October 10, 2015 seeking no objection from the Complainant. On being enquired from the Respondent about the mode of sending such a communication, the Respondent informed that the same was sent by DTDC courier. When the Committee further enquired from the Respondent that can he prove the delivery of such a letter to which the Respondent replied that he did not have proof of delivery.



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4. While taking cognizance of the communication, the Committee wishes to reproduce the following paragraph from Clause (8) of Code of Ethics of ICAI (11<sup>th</sup> edition Reprint December 2010) which inter-alia deals:-

*“accepts a position as auditor previously held by another Chartered Accountant or a Certified Auditor who has been issued Certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing”:*

*“Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent “Registered Acknowledgement Due” or by hand against a written acknowledgement would in the normal course provide such evidence”.*

*The professional reasons for not accepting an audit would be”*

*(i)....*

*(ii) Non-Payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act, 1956 or various other statutes; and*

*(iii)...*

5. The Committee noted the above paragraphs from the Code of Ethics and found that the Respondent failed to follow the same. In view of above and since during the course of hearing, the Respondent accepted the audit assignment without properly communicating with the previous auditor, the Committee decided to hold the Respondent Guilty of professional misconduct falling within the meaning of Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

6. In respect of second charge related to accepting audit without payment of outstanding audit fees to previous auditor, the Committee noted that though the Respondent stated that partly payment was made in cash yet, he could not bring on record any documentary evidence to show that outstanding audit fees was paid fully to the Complainant before accepting the audit. In respect of this charge, the Committee wishes to reproduce Chapter VII of the Council General Guidelines, 2008 which states as under:-

## **“Chapter VII**



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**Appointment of an Auditor in case of non-payment of undisputed fees**

**7.0** A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid:

**Provided** that in the case of sick unit, the above prohibition of acceptance shall not apply.

**7.1 Explanation 1:**

For this purpose, the provision for audit fee in accounts signed by both - the auditee and the auditor shall be considered as "undisputed" audit fee.

**7.2 Explanation 2:**

For this purpose, "sick unit" shall mean where the net worth is negative."

7. Considering the above, the Committee is of the view that the Respondent should not have accepted the appointment as auditor of an entity in view of the fact that undisputed fees of the previous auditor (the Complainant) was outstanding and was not fully paid. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

**Conclusion**

8. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning Clause (8) of Part I of First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

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





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