

**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. : [PR-253/2015/DD/236/15-DC/787/2018]**

**In the matter of:**

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**Shri Anand Achyuttrao Kulkarni**  
Indri Building, 9th Cross Plot No.14,  
Vidyagiri,  
Bagalkot,  
**KARNATAKA - 587102**

**.....Complainant**

**Versus**

**CA. Anil Kumar Haridas Nagar (M.No.101552)**  
Flat No. 4, Venkatesh Embassy,  
1st Floor, Miraj Road, Opp. To Z. P.  
Sangli,  
**MAHARASHTRA- 416416**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Atul Kumar Gupta, Presiding Officer**

**CA. Amarjit Chopra, Member (Govt. Nominee)**

**CA. Rajendra Kumar P, Member**

**CA. Chandrasekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 04.09.2019**

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

**PARTIES PRESENT** :

**Complainant: Not Present**

**Respondent: CA. Anil Kumar Haridas Nagar**

**Counsel for Respondent: Shri SG Gokhale (Advocate)**

**Charges in Brief:-**

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent is guilty under Clause (6) and Clause (7) of the Part I of Second Schedule of Chartered Accountant Act 1949. The above said clause (6) states as under :-

*“(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;”*

And Clause (7) of Part I of Second Schedule states that:-

*“(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;”*

2. The complainant has made 15 allegations against the Respondent. In the prima-facie opinion (PFO), the same were compiled in Para Nos. 7.1 to 7.8 and only on one charge the Respondent was held guilty in the said PFO.
3. The charge against the Respondent is that he had over stated the inventory for three Financial Years, 2012-13, 2013-14 and 2014-15. The Committee notes that the company for which the professional work was done by the Respondent is into manufacturing of sugar and it is in the inventory valuation of sugar that the overstatement is alleged by the Complainant.

### **Brief facts of the Proceedings:**

4. On the date of the personal hearing granted to both sides on 4<sup>th</sup> September, 2019, we find that only the Respondent is present. It is brought to our notice that when the first opportunity was given to both sides on 20.07.2019, the matter was adjourned on the request of the complainant. And as per the Principle of natural justice one adjournment was granted by the Committee. Now considering the Proviso to Rule 18(18) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 which states as follows :-

*“Provided that such adjournment shall not be given more than once at any stage of the proceedings.*

*Explanation.- For the purpose of this rule, inability of the complainant, advocate, authorized representative or witness, to appear shall not be treated as valid reason for adjournment of a hearing.”*

The Committee following Rule 18(18) proceeded to hear the Respondent in the absence of the complainant.

### **Findings of the Committee**

4. On the matter stated above the Committee noted that the respondent vide his letter dated 26<sup>th</sup> November, 2018 addressed to the Director (Discipline) in Paragraph 4, Page No. 2, submits the following in his defence:

“4. As regards inventory valuation as on 31/03/2015, the relevant portion of adverse observation in para 7.3.5 reads as follows:-

*“but the Respondent could not bring on record any documents or working papers which could have established that valuation of Inventory as stated by the Special Auditor was not materially misstated in the financial year 2014-2015. Thus, the above allegation is required to be enquired further to examine as to how the Respondent satisfied himself that Inventory was not overstated / understated. Hence, the Respondent is prima facie guilty of professional misconduct with respect to above allegation falling within the meaning of Clauses (6) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.”*

Reply –

In this regard, I want to explain the process of valuation of the sugar stock followed by the Company. The Company was normally obtaining Quotations from Customers for Sugar Prices in the end of March from willing buyers to purchase sugar in next year and Inventory valuation

is considered accordingly. The same process is also accepted by the Statutory Auditor for their Audit.

Hence, I am enclosing herewith the following quotations on the basis of which the management has valued stock for the year ended 31/03/2015.

Name of the party	Date of Quotation
a. Madanlal Chandak & Co.,	30/03/2015
b. HMR Enterprises	30/03/2015

The said quotations were also relied upon by Statutory Auditors for inventory valuation purpose as on 31/03/2015. The valuation of the Sugar is done at average rate of Rs.2,795/- per quintal. It should be noted that the said rate is lower than the average rate of sugar cost of Rs.3000/- per quintal.

It may be noticed that the valuation adopted is closer and/or comparable with the prices in quotations.

I hope that the valuation relied upon by me is in order as per the material available on record.”

5. The Committee wanted to know from the Respondent whether he is the statutory auditor or the tax auditor of the company in question. The Respondent informed that he had conducted audit under Section 44AB of the Income Tax Act, 1961 and, hence, is the tax auditor. The Respondent also informed that M/s Kishor R. Joshi & Associates, Chartered Accountants of Sangli are statutory auditors and the statutory audit report was signed by the partner of the said firm CA. Paragesh K. Joshi. The Committee wanted to know whether as a tax auditor the Respondent can engage himself in the valuation of inventories. The Respondent answered in negative. It is the duty of the statutory auditor to value the inventory and once such valuation is done, the value is finalized, the balance sheet and profit and loss accounts are drawn and certified by the statutory auditors. The tax auditor has no role whatsoever to go into the said valuation after the statutory auditors have certified the financial statements.

## **Conclusion**

6. In view of the above the Committee notes that the responsibility to value the inventory is that of the statutory auditor and not of the tax auditor. It is not the responsibility of the tax auditor to value inventories, the allegation of the

complainant fails. The Committee wishes to submit that we are not going into the methods of valuation as the same is not required in this case and, hence, we do not offer any comments on the same. The Committee finds merit in the Respondent's plea that he is only the tax auditor and is not responsible for the valuation of inventories. Accordingly, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** in terms Clause (6) and Clause (7) of the Part I of Second Schedule of Chartered Accountant Act 1949.

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

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

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

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

**DATE: 16.12.2019**  
**PLACE: NEW DELHI**