

**CONFIDENTIAL**

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

**[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]**

**Findings cum Order under Rule 18(17) and Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No. : [PR 237/12-DD/03/2013/DC/445/2016]**

**In the matter of:**

**Shri Prasad S. Shetty**

C/o R. V. Govilkar  
Advocate, Ministry Mansion, 1<sup>st</sup> Floor  
107, Mahatma Gandhi Road  
Hutatma Chowk  
Mumbai – 400 023.

....Complainant

**Versus**

**CA. Sohanlal Chaturvedi**

....(M. No. 030760)

**CA. Devanand Chaturvedi**

....(M. No. 041898)

M/s. Chaturvedi Sohan & Co.  
Chartered Accountants  
320, Tulsiani Chambers  
Nariman Point  
Mumbai – 400 021.

.....Respondents

**MEMBERS PRESENT:**

**CA. Atul Kumar Gupta, Presiding Officer**  
**CA. Amarjit Chopra, Government Nominee**  
**CA. Rajendra Kumar P, Member**  
**CA. Chandrashekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 16.01.2020**

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

**PARTIES PRESENT:**

**Counsel for Complainant :- Shri Mihil Govilkar, Advocate**

**Respondent 1:- CA. Sohanlal Chaturvedi**

**Respondent 2:- CA. Devanand Chaturvedi**

**Counsel for Respondent 1:- CA. S. G. Gokhale**

**Counsel for Respondent 2:- Shri Arun Saxena, 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 was held Guilty under Clause (7) of Part I of the Second Schedule of Chartered Accountant Act 1949. The above Clause (7) of Part I Second Schedule of Chartered Accountant Act 1949 which states as under:-

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

2. In this case, briefly, the charge against the Respondent is that his firm failed to report many material misstatements known to them in Financial Statements of M/s. Haldyn Glass Limited (hereinafter referred to as “the Company”) and did not obtain sufficient information which was necessary for expression of their opinion as Statutory Auditors and firm did not invite attention to the number of material departures from the generally accepted procedures of audit applicable to Financial Statements as Statutory Auditors.

3. The Committee also noted the there were two witnesses from Complainant, CA. Jayant A. Puranik, Accounts Manager of the company and Mrs. Samyalata Shetty, General Manager of the Company and CA. R.R. Surana (M.No.032007) and CA. Mrugane Shah (M. No. 114771) internal auditor of the Company for the period 2010-2011 to 2011-2012 from Respondent. Apart from that Committee also called witness CA. Rakesh Mishra and CA. Atul Shah of M/s. Parth Consultants, Special Auditors of the Company.

4. Apparently, there was some financial fraud in the Company by misappropriating the funds. There was an inquiry being conducted by a special Auditor M/s Parth Consultants and also by Economic Offences Wing (EOW). The Management of the Company leveled allegation on few person(s) for committing the fraud including Mrs. Samyalata Shetty, General Manager of the Company whose brother is the complainant in this case. The allegation of the Complainant is that in spite of continuous pilferage

and embezzlement of funds from Company, the Statutory Auditor did not act diligently and not reported the same in their Auditor Report including CARO. The Complainant's Counsel appeared before this bench and cited the finding of M/s Parth Consultant and shared the year wise calculation of expenses wherein the report questioned the genuineness of expenses. It is to be noted here that the overall turnover in the alleged period from 2007-08 to 2011-12 was Rs. 660 Crore (Approx.) and the M/s Parth Consultants report pointed Unexplained expenditure and other related fraud of around 16.87 Crore as regards payment to various suppliers, associates Companies and alleged misappropriation by the Company management.

**Brief facts of the Proceedings:**

5. On the day of the hearing, the Committee noted that Complainant's counsel was present. The Respondents along with their Counsels appeared before the Committee. The Respondent was already on oath as the matter was part heard on the following dates mentioned below :-

*17.04.2018 – Part heard & Adjourned.*

*19.12.2018 – Part heard & Adjourned.*

*04.01.2019 – Part heard & Adjourned.*

*08.05.2019 - Adjourned due to paucity of time.*

*29.05.2019 – Part heard & Adjourned.*

*20.07.2019 – Part heard & Adjourned.*

*06.01.2020 – Part Heard & Adjourned.*

The Complainant's Counsel was directed to open the Charges. The Complainant's counsel brief the charges before the Committee. On being asked to the Respondents whether they plead guilty, both replied in negative. Thereafter, the Committee sought whether they wish to proceed with his defence. The Respondents made their submissions. After considering all papers available on record and pleadings, the Committee proceeded with the matter.

**Findings of the Committee**

6. On being inquired, the Respondents stated that during the course of audit they had always conducted audits with due care and keeping in view the laws applicable in the relevant financial years and after collecting detailed documents and materials as required. They had also relied on the internal control system of the Company as well as reports of internal Auditors. Respondent further submitted that In case of purchase of material, Company has sufficient internal control. The purchase of any material

requires the purchase requisition of the store. The purchase department is not allowed to issue any purchase order. Purchase Orders are serially numbered and system generated. Since the Company is using ERP software, it is not possible to issue a backdated purchase order and change the purchase order's number. The purchase order was authorized by the assistant purchase Manager and verified and further authorized by the purchase Manager. Managing Director directly reviewed the purchase order in case of a large amount of purchases. Supplier's invoices were verified by the accounts Manager and also reviewed by the chief financial officer (CFO) at the time of realizing the payment. Any major repair and maintenance and other capital expenditure require the approval of the managing director of the Company. The company also has a daily reporting system in case of Cash and bank transactions including bank reconciliation. The Company also has a Management Information System (MIS) and reports were presented before the Managing Director and Chairman every month.

7. The Respondents also stated that Company has eminent personalities in their Board as well as in Audit Committee from various fields like RBI, Income Tax and solicitors who have enormous knowledge in the field of financial as well as legal compliance. In the meeting of the Audit Committee, they intensely discuss the quarterly budget and also compare actual with an estimated budget of that quarter. They have been also covering major areas of expenditure including capital expenditure incurred during that period. During the Audit Committee meeting, Internal Auditors are also called and report of internal Auditors is also discussed in detail. Since Company has such strong internal control they have no reason to disbelieve about the genuineness of financial as well as other transactions of the Company.
8. The Respondent also draws attention of this committee on the Standard of Auditing (SA) 610, 'Using the work of internal Auditors', the objectives of internal audit functions vary widely and depend on the size and structure of the entity and the requirements of management and, where applicable, those charged with governance. AS per SA 610, the activities of the internal audit function may include one or more of the following:
  - Monitoring of internal control
  - Examination of financial and operating information
  - Review of operating activities
  - Review of compliance with laws and regulations.

9. The Respondent pointed that Internal Auditors are being appointed by the Board of Directors with the consent of Audit Committee and the Company has given the exhaustive scope of Audit for internal audit for both plants situated at Vadodara and administrative office at Mumbai. It is noted that the Respondent was the statutory auditor of the company for the F.Y. 2007-08 to 2011-12. The Respondent made the following observations in the audit report issued by him for the following years:

In the Financial Year 2007-08 to 2010-11, the Respondent in his Audit Report stated at the relevant para(s):

*“In our opinion, the Company has an adequate internal audit system commensurate with the size and nature of its business.”*

*“To the best of our knowledge and belief and according to information and explanations given to us, no fraud on or by the Company was noticed or reported during the year.”*

In the Financial Year 2011-12, the Respondent in his Audit Report Dated: 30.05.2012 at Para (iv) of the Annexure to the Audit Report stated:

*“In our opinion and according to the information and explanations given to us, there are adequate internal control procedures commensurate with the size of the Company and nature of its business for the purchase of fixed assets and for rendering of service. However, considering the misappropriation of Company’s funds by few employees during the year, the management is in process to further strengthening the internal control system.”*

At Para (vii) of the Annexure to the Audit Report, the Respondent stated:

*“In our opinion, the Company has an adequate internal audit system commensurate with the size and nature of its business.”*

At Para (xxi) of the Annexure to the Audit Report, the Respondent stated:

*“Instances of misappropriation of the Company’s funds by some senior employees were noticed during the year. The Company has lodged a police complaint and initiated appropriate legal action. Investigations are in progress. The amount involved is not presently quantifiable.”*

Further, on perusal of the special audit report dated 31st Dec 2011 issued by Path Consultants, which stated therein:

*“ the scope of the work was to carry out a test check of the system and certain ledgers and supporting documents and also to go through the accounts of the company for the year starting from 2008-09 to 2011-12 and give our findings on the same.*

*We would like to draw the attention of the management for certain incidence which has occurred out off the way to normal accounting procedures and systems followed by the company in general as well as your company. I fail to understand as to in spite of having such a capable software and such a set procedure to record the various transactions why in many*

*cases the same procedures are not followed and why deviations to normal procedure or system have been used.”*

10. Based on above facts, question before this committee is that the amount quantified by the Management and the Respondent as Auditors in the Audited Financial Results for the year ended on March 31, 2012, published by the Company on May 30, 2012, mentions the amount of Rs 1628.27 lakhs as reported by M/s Parth Consultants in their Report dated 31st December, 2011. However, the Board of Directors of Haldyn Glass Limited and Auditors decide not to report the said amount in the Annual Report. Both were approved on the same day viz. 30th May, 2012. So whether there is negligence on the part of the Respondent in reporting the facts?
11. It is to be noted that the Committee examined various witnesses and asked certain pertinent questions. The Committee noted that the Managing Director of the Company Mr. Tarun Shetty submitted that he got information about some suspicious transactions and management has started investigation through trusted employees who noticed irregularities in various transactions. On the basis of such information, Management had appointed special Auditor M/s Parth Consultants to carry out the investigation of Accounts. On the basis of Report of M/s Parth Consultants, Company has lodged an FIR against certain persons on 23rd January, 2012 with Sahar Police Station.
12. The Committee based on the above facts and statement of witnesses observed that:
  - The above case is investigated by Economic Offence Wing (EOW) and the above matter is under investigation.
  - Neither investigating authorities nor special auditor has any conclusive evidence that fraud had occurred in the relevant financial years.
  - Report of M/s Parth Consultants mentioned “we found various type of transactions which need detail verification” that clearly indicates that report of M/s Parth Consultation also have not a conclusive for occurrence of fraud during the relevant financial years.
  - Since there is no conclusive evidence of misappropriation of funds and the management itself has only quantified the amount in FIR, the Respondents had not quantified amount in their Audit Report. However, they have reported all the other disclosure in the CARO of Audit Report, wherever it is required in relation to misappropriation of funds.
  - The investigation report, which has been cited as the main evidence of allegations regarding non-detection of fraud, is totally contradictory. Detection of fraud could have not been done without proper investigation

whereas the Respondent-firm was appointed as statutory auditor of the company to report under Section 227 (1) of the Companies Act and was not appointed to carry out an investigation for the purpose of fraud.

- The total amount reported in FIR is around 6 Crore which is 1% of the turnover in the alleged period.
- That there were internal control and the Internal Audit process was implemented in the Company.
- That the Complainant himself is a brother of one of the accused in FIR filed by Company.

13. In view of the above and statement of the witness, this Committee is of the view that guilt on part of Respondent is not substantiated by the Complainant and accordingly Committee decides to exonerate them from the charges

### **Conclusion**

14. In view of the above findings, the Committee is of the view the Committee finds no merit in the complaint filed by the Complainant. Accordingly, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** under Clause (7) of Part I of the Second Schedule of Chartered Accountant Act 1949.

15. **Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for the closure of this case against the Respondent.**

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

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

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

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

**DATE: 10/02/2020**  
**PLACE: NEW DELHI**