



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

**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.**

File No. : File No. [PR-203/17-DD/213/17/DC/1017/2019]

**In the matter of:**

**Shri Sahebgouda S Police Patil**  
Lingaraj Nagar South  
Vidyanagar  
Hubballi-580 031

**.....Complainant**

**Versus**

**CA. Shrikant Shankar Nironi ...(M. No. 215563)**  
Shop no.1-655/G-14  
New Timmapuri Complex  
SVP Chowk MSK Mill Road  
Beside Vijaya Karnataka Office  
Kalaburagi-585 102

**.....Respondent**

**Members present :**

**CA. Atul Kumar Gupta, Presiding Officer**  
**Smt. Anita Kapur, Member (Govt. Nominee)**  
**Shri Ajay Mittal, Member (Govt. Nominee)**  
**CA. Manu Agrawal, Member**

**Date of Final Hearing: 13<sup>th</sup> August 2020 through Video Conferencing**

**Place of Hearing: Gurugram**

1. Vide report dated 07<sup>th</sup> January 2020 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. Shrikant Shankar Nironi (M. No. 215563)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 regarding Turnover Certificates dated 15<sup>th</sup> September 2016 and 25<sup>th</sup> September, 2016 issued by him in respect of Sri P Chidanandappa, Yadagir (herein after referred to as "Client") containing different turnover for same period(s) i.e. assessment years 2014-15 and 2016-17. It is noted that the Respondent is guilty under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 as per which the Respondent: **"does not exercise due diligence, or is grossly negligent in the conduct of his professional duties."**

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 6<sup>th</sup> August 2020 was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 13<sup>th</sup> August 2020 through video conferencing.

3. The Respondent appeared before the Committee on 13<sup>th</sup> August 2020 through video conferencing from his office and made oral submissions whereby he accepted his mistake as regard the alleged conduct.

✓ (M)



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4. The Committee considered the oral submissions made by the Respondent. The Committee was of the view that the Respondent did not act diligently as there were variations in the turnover reported for two assessment years 2014-15 and 2016-17 in the certificate issued by him dated 15<sup>th</sup> September 2016 and 25<sup>th</sup> September 2017 not only with overall increase in turnover of more than Rs.10 Crores reported in the revised certificate issued on 25<sup>th</sup> September, 2016 but the reported turnovers were also in gross variation with the audited financial statements of the client for the said periods. It was, further, noted that the Respondent has failed to bring any working paper like WCT certificate of contractor, TDS certificate of the contractor, Form 26AS (annual statement which contains all tax related information of a taxpayer) etc. to justify the increase in turnover certified by him.

5. The Committee noted that the Respondent has been held guilty within the meaning of clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered the removal of name of Respondent **CA. Shrikant Shankar Nironi (M. No. 215563)** from the Register of Members for a period of 2(two) years alongwith imposing a fine of Rs. 25,000/- (Rupees Twenty Five thousand only) on the Respondent.

sd/-

[CA. Atul Kumar Gupta]  
Presiding Officer

sd/-

[Smt. Anita Kapur]  
Member, (Govt. Nominee)  
(approved & confirmed through e-mail)

sd/-

[Shri Ajay Mittal]  
Member, (Govt. Nominee)  
(approved & confirmed through e-mail)

sd/-

[CA. Manu Agrawal]  
Member  
(approved & confirmed through e-mail)

Date: 13<sup>th</sup> August 2020 through Video Conferencing

✓ (M)

Certified to be True Copy  
*Mohita Khanna*  
(Mohita Khanna)  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India

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.

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Kalaburagi-585 102

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer**  
**CA. Amarjit Chopra, Member (Govt. Nominee)**  
**CA. Chandrasekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 15.10.2019**

**PLACE OF FINAL HEARING : ICAI Bhawan, Chennai**





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**PARTIES PRESENT** :

Complainant : Shri Sahebgouda S. Police Patil  
 Counsel for Respondent : CA. C.V. Sajan

**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 (7) of Part I of the Second Schedule and Clause (2) of Part IV to the First Schedule to the Chartered Accountants Act, 1949. The above said 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;"*

And Clause (2) of Part IV to the First Schedule states that:-

*"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."*

2. In this case the allegation on the Respondent is to issue two different turnover certificates for the same year in respect of a Sri P Chidanandappa Class I Contractor, Yadagir.

**Brief facts of the Proceedings:**

3. On the day of hearing, the Committee noted that Complainant was present; on other side, the Respondent's Counsel appeared before the Committee. The Complainant was put on oath. Thereafter, the Committee asked the Respondent's Counsel whether he wishes the charge to be read out or it can be taken as read. The Respondent's Counsel stated before the Committee that he was aware of the charges made against the Respondent and same may be taken as read. On being asked to the Respondent's Counsel whether the Respondent pleads guilty, he replied in negative. Thereafter, the Committee ✓



sought whether he wishes to proceed with his defence. Thereafter, the Respondent's Counsel placed his defence on table. After considering defence of the Respondent and all papers available on record, the Committee decided to proceed with the matter.

### Findings of the Committee

4. On the matter stated above this committee noted that, As far as the above charge is concerned, the Respondent's Counsel was present and submitted that he issued a turnover for the year 2014-15 and 2016-17 dated 15<sup>th</sup> September, 2016, addressed to the Executive Engineer, PWD and IWTD, Yadagir. Later on, The Respondent withdrew the certificate so issued and issued a new certificate on 25<sup>th</sup> September, 2016 with the revised turnover.
5. The Committee reviewed both the certificates issued by the Respondent available on page 'D-3 & D-5' of the prima facie opinion wherein there were variations in the turnover for two years 2014-15 and 2016-17 with overall increase of more than Rs.10 Crores in the revised certificate issued on 25<sup>th</sup> September, 2016, and the number are as follows:-

Particulars	Annual Turnover on certificate dated 15 <sup>th</sup> Sep,2016(figures in lakhs)	Annual Turnover on certificate dated 25 <sup>th</sup> Sep,2016(figures in lakhs)
During the A/Y 2014-15	647.55	1947.55
During the A/Y 2016-17	1422.12	1932.12

6. The Committee further noted that the increase in alleged turnover was made out from construction contract received from 'Navya Constructions' for which certain "work done certificate". These certificates were placed on record by the Respondent which is annexed on page 'D-6 to D-11' of prima facie opinion. The Committee after reviewing the said certificates noted that these certificates do not bear address, contact details and other statutory details which are mandatorily required on the letterhead any of entity but in the



present case (i.e. Navya Constructions) these abovementioned details were missing.

7. The Committee reviewed the financial statements which is prime source of evidence to see the turnover reported for various financial years and found gross variation in amounts as per the audited financial statement vis-à-vis the turnover certificate given by the Respondent. Herein, the Respondent submitted that the variation is because of certain reason that the contract with Navya Constructions was a service contract (PMC contract). As per their accounting practice, only the charge for PMC contract will be included in the audited financial statement whereas the total contract value can be considered in the turnover certificate given. The Respondent has issued Certificate on this particular technical reason.
8. The Committee reviewed the financial statement vis-à-vis certificate issued, in pretext Accounting Stanadard-7 (Construction Contracts) and Accounting Standard-9 (Revenue recognition) and reviewed the reconciliation statement made for the various financial year available on the 'W-3' of the Prima-Facie Opinion which is as follows:-

4. The certificate that I issued is reconciled with the figures in the Profit and loss account of the Contractor as follows

(1)	(2)=(3)+(4)	(3)	(4)	(5)	(6)=(3)+(5)
Fin Year	Total value of contract as per certificate issued	Out of it Contracts Recognised on Gross Basis under AS -7 in P/L	Gross value of Service Contracts Recognized on net basis under AS 9	Fees element included in revenue against values in column (4)	Total amount in P/L account as revenue
2011-12	960.87	348.87	612.00	12.00	360.87
2012-13	1466.35	395.35	1071	21.00	416.35
2013-14	1947.55	621.55	1326	26.00	647.55
2014-15	736.43	736.43	0	0	736.43
2015-16	1932.12	967.32	964.80	18.91	986.23

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In addition to above chart it was also mentioned that *"The above table prove that the certificate issued by the Respondent, was based on the work executed by the contractor as indicated in the certificate itself and the word "turnover" indicated in the certificate does not signify "Revenue", but the gross value of works undertaken."*

9. The Committee also noted the Respondent has not brought on record any working paper like WCT certificate of contractor, TDS certificate of the contractor, Form 26AS (annual statement which contains all tax related information of a taxpayer) etc. to justify the turnover certified by him.

10. The Committee further noted that neither work done was available and nor commensurate in these certificate financially. As per Accounting Standard-7 the definition of construction contract is as follows:-

*"2.1 A construction contract is a contract specifically negotiated for the construction of an asset or a combination of assets that are closely interrelated or interdependent in terms of their design, technology and function or their ultimate purpose or use."*

Whereas the Explanation to Accounting Standard-9 is as follows:-

*"5. Revenue recognition is mainly concerned with the timing of recognition of revenue in the statement of profit and loss of an enterprise. The amount of revenue arising on a transaction is usually determined by agreement between the parties involved in the transaction. When uncertainties exist regarding the determination of the amount, or its associated costs, these uncertainties may influence the timing of revenue."*

10.1. The Committee also not in agreement with the pear of principle that value of certificates contract has been reconciled on the net basis under Accounting Standard-9 as on the construction contract is governed by Accounting Standard-7 rather than Accounting Standard-9.

### Conclusion

11. The Committee noted that there is a gross negligence on the part of the Respondent by issuing a certificate which does not only not match with the financial statement but also the two certificates which furnish the different

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 figures for same financial years for which no working paper and other supporting material is available on record. Even, the contention of the counsel of the Respondent is that there is always a service contract, wherein, the total contract value will be different in the certificate as compared to the financial statement. The Committee is of the view that kind of facts have not been even disclosed in the certificate in this particular case.

12. Thus, upon consideration of all facts, circumstances, record and law, the reasoning stated as above. The Committee is of the opinion that the Respondent is grossly negligent while performing his professional duty. Whereas there is no specific charge and corroborative evidence in relation to Clause (2) of Part IV of First Schedule, the Committee decided to absolve from this particular charge. In terms of the reasoning as above, in the considered opinion of the Committee, the Respondent is held **GUILTY** in under Clause (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.



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

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

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

Certified True Copy

  
 Mukesh Kumar Mittal  
 Assistant Secretary  
 Disciplinary Directorate

The Institute of Chartered Accountants of India  
 ICAI Bhawan, I.P. Marg, New Delhi-110 002

**DATE: 07.01.2020**

**PLACE: Mumbai**