



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. : [PR/172/15/DD/183/15/DC/517/2017]

In the matter of:

Shri S.K. Sreenivasulu,
Member of the "Meera Co-operative Housing Society Ltd"
3-6-345, Flat No. B-2,
Meera Apartments, Basheerbagh,
HYDERABAD - 500 029 ...Complainant

Versus

CA. B. Narender Rao, (M.No.027432),
404, Pragati Pride,
Opp. Aruna Studio 3-4-520 to 526,
Barkatpura Road,
Barkatpura,
HYDERABAD — 500 027 ...Respondent

Members Present:

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

Date of Final Hearing: 2nd July 2020 through Video Conferencing

Place of Hearing: Gurugram

Party Present:

CA. B. Narender Rao (M.No.027432) – Respondent

1. Vide report dated 10th February, 2020 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. B. Narender Rao (M.No.027432)** was **GUILTY** of Professional Misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule of Chartered Accountant Act 1949 with respect to allegations relating to the statutory audit of Meera Co-operative Housing Society Limited, Hyderabad (hereinafter referred to as the "Society") wherein the Respondent was its statutory auditor for the Financial Years 2012-13 and 2014-15. It was noted that there were two specific allegations against him. Firstly, with respect to treatment of transfer fees received during financial year 12-13 and

✓ (H)



secondly with respect to treatment of Profit on Sale of Investments pertaining to financial year 2014-15, both items being taken directly to balance sheet rather than routing them through Income and Expenditure Account of the periods concerned.

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was initiated against the Respondent and communication dated 15th June 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 2nd July 2020 through video conferencing.

3. The Respondent appeared before the Committee on 2nd July 2020 through video conferencing from ICAI Centre of Excellence, Hyderabad and made oral submissions wherein he had inter-alia stated that the Framework of Accounting Standards expressly provide that the Accounting Standards apply only to the organizations engaged in commercial, industrial and business activities. As per him, the Co-operative Housing Society concerned was engaged in the day to day upkeep and maintenance of common services for the benefit of the flat owners, and hence had the character of a mutual benefit association and was therefore exempted from the applicability of Accounting Standards. With respect to allegations he stated that

- The 'transfer Fee'/ New membership Fee was charged by the Society from the new/incoming members on account of change in membership/ ownership not within the control of the management of the Society and thus it was non-recurring in nature. Hence, the management decided to consider transfer fees as capital receipt. He stated that said accounting policy was regularised in FY 12-13 and it was consistently followed in subsequent years. It was noted that the Respondent also brought on record the Judgement of Bombay High Court in case of **Sind Co-operative Society Vs ITO** to argue on transfer fees being capital receipt by nature. It was argued that transfer fees was a one time amount collected from members/owners at the time of joining which was non-recurring and therefore not treated as revenue item in the financial statements.

- With respect to treatment followed for 'Profit on Sale of Investments' i.e. to directly take it to Reserves and Surplus (i.e Capital Reserve), the Respondent submitted that the investments in shares were made by the Society only for the purpose of facilitating the members of the Society for obtaining the loans from HDFC in the year 1980 by way of subscription of shares of HDFC in the name of the Society. Further, the sale proceeds from sale of shares had been utilized towards capital expenditure like installation of lifts, building renovation etc. Accordingly, the management of the Society decided to adjust the profit on sale of Investments under Reserves and Surplus in the

1/12



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

Balance sheet beside reflecting in receipt and payment account along with its disclosure in the Notes to Accounts. He also stated that the same was not material also.

4. The Committee considered the oral as well as the written submissions made by the Respondent and noted that the Respondent was the Statutory Auditor of the Society for the F.Y. 2012-13 and 2014-15 and he had issued his audit report on 30th May 2013 and 30th April 2015 respectively. As regard the allegation that the "Transfer Fee" amounting to Rs.90,000/- received in financial year 2012-13 (C-7) which instead of reflecting in Income and Expenditure Account was taken directly adjusted/ taken to the Balance Sheet, the Committee noted that the Respondent, in extant case, has argued based on decision taken by the management of the Society and Judgement of Bombay High Court in case of *Sind Co-operative Society Vs ITO*. The Committee was of the view that firstly the generally accepted accounting principles should be viewed independent of Income Tax laws. An item may be treated as capital receipt as per Income tax laws does not necessarily mean it would be treated similarly for the purpose of accounting. Further, the management decision cannot go against such principles. It was viewed that transfer of flats cannot be considered as non-recurring transaction for the Society because if flats exist it could be transferred multiple number of times too. Hence, the transfer fee, in extant case, was a revenue receipt and accordingly in view of generally accepted accounting principles the same should have been routed through Income & Expenditure Account rather than directly taking to the Balance Sheet in the absence of which the Respondent should have reported the same in his audit report. However, the Respondent failed to report it in his audit report on the financial statements of FY 12-13.

5. Further, as regard another charge regarding adjusting the Profit on Sale of Investments (C-21) directly to Capital Reserve in Balance sheet, the Committee noted that the Respondent has argued regarding non-applicability of accounting standards on the financial statements of Co-operative Society. It is noted that the Respondent has produced Announcement XVI, 'Applicability of Accounting Standards to Co-operative Societies', issued by the Accounting Standards Board of the Institute which states as follows:

"...the accounting standards issued by the Institute shall apply in respect of financial statements of co-operative societies, which carry on commercial, industrial or business activities, and are subject to the attest function of the members of the Institute. The Accounting Standards made mandatory by the Institute, as specified in the respective standards or made mandatory by separate announcements, are also mandatory in respect of co-operative societies.



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

For the removal of doubts, it is clarified that even if a very small proportion of the activities of a co-operative society is considered to be commercial, industrial or business in nature, then it cannot claim exemption from the application of Accounting Standards. The Accounting Standards would apply to all its activities including those which are not commercial, industrial or business in nature"

It was viewed that if the Co-operative Society was making investments in the shares of bank, Fixed Deposits and earning interest/dividend income as well as profit on sale of shares as appearing from the Income and Expenditure Account of the relevant period, the Society was undertaking business activity even if it constitutes a small proportion of its activities and hence the accounting standards were applicable in extant case. It was further noted that the Society was Level III enterprise to which AS-13, Accounting for Investments was mandatorily applicable. Hence, in view, Para 21 of Accounting Standard 13 "Accounting for Investments" on disposal of an investment, the profit of sale of investments should have been routed through Income & Expenditure Account and not to be directly credited to Reserves and Surplus in the balance sheet.

6. The Committee was thus of the opinion that the misconduct on the part of the Respondent had been established within the meaning of Clause (7) and Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949. Accordingly, considering the nature of negligence and its limited effect on the financial statements of the co-operative society, the Respondent **CA. B. Narender Rao, (M.No.027432)** be reprimanded.

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. Chandrashekhar Vasant Chitale]
Member
(approved & confirmed through e-mail)

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

Date : 2nd July, 2020 through Video Conferencing

ve

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.

File No. : [PR/172/2015/DD/183/2015/DC/517/2017]

In the matter of:

Shri S.K. Sreenivasulu,

Member of the "Meera Co-operative Housing Society Ltd"

3-6-345, Flat No. B-2,

Meera Apartments,

Basheerbagh,

HYDERABAD - 500 029.

.....Complainant

Versus

CA. B. Narender Rao, (M.No.027432)

404, Pragati Pride,

Opp. Aruna Studio 3-4-520 to 526,

Barkatpura Road,

Barkatpura,

HYDERABAD – 500 027

.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer

CA. Amarjit Chopra, Member (Govt. Nominee)

CA. Chandrasekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 10.12.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT:

Complainant: Shri S.K. Sreenivasulu

Counsel for Complainant: CA. Ashok Kumar

Respondent: CA. B. Narender Rao

Counsel for Respondent: CA. C.V. Sajan

2

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) and Clause (9) of Part I of Second Schedule of Chartered Accountant Act 1949. The said Clause (7) of Part I of Second Schedule states as under:-

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

And Clause (9) of Part I of Second Schedule states as under:-

"(9) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;"

2. In this case the Complainant (member of Cooperative Housing Society) alleged that Respondent who audited the Financial Statement not acted diligently. There are two specific instances reported in Compliant:
 - a. That the "Transfer Fee" received in financial year 2012-13 rather being reflected in Income and Expenditure Account took directly to Balance Sheet.
 - b. That Profit on Sale of Investment of Rs.4,87,000/- for the Financial Year 2014-15 was taken directly to Capital Reserve head in Balance Sheet rather being routed through Income and Expenditure Account.

Brief facts of the Proceedings

3. On the day of hearing, the Committee noted that Complainant was present along with his Counsel. The Respondent appeared before the Committee along with Counsel. Both Complainant and Respondent were put on oath. In presence of the Complainant and with consent of Respondent, the charges were taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wish to proceed with his defence. After considering all papers available on record and pleadings, the Committee proceeded with the matter.

Findings of the Committee

4. On the matter stated above, on inquiry from the Committee on the allegation, the Respondent submitted that the practice of taking transfer fee into Balance Sheet is an old practice as it is not recurring revenue. Accordingly, the same is treated as capital



receipt and taken into Balance Sheet directly. This being countered by the complainant in his oral submission that the "Transfer fee" is recurring in nature which is being claimed from every transfer or of dwelling unit once being sold to new resident by the existing owner and every year 4-5 such cases are there. Accordingly, the same should have been reflected in Income and Expenditure Account. The Complainant also submitted the Income and Expenditure Account for the year 2008-09 wherein he invited the attention of the Committee for the treatment of "transfer fee" into Income and Expenditure Account.

5. The Committee, in this background is of the view that the amount of transfer fee should not have been taken directly to balance sheet without reflecting in Income and Expenditure account.
6. On the second allegation, the Committee referred the factual position by referring the AS-13 (applicable in the alleged period) – Accounting for Investment, Para 21 which states that on disposal of investment, the difference between the carrying amount and the disposal proceeds, net of expenses, is recognized in Profit and Loss Account (for Cooperative Society Profit and Loss Account is recognized as Income and Expenditure Account). In view of the above, the Committee considered the treatment accepted by Respondent in financial statement so audited is wrong and Respondent was required to qualify his report. Accordingly the Respondent is guilty on this charge.

Conclusion

7. In view of the above findings, and reasoning as stated in above Para, the Committee holds the Respondent **GUILTY** under Clause (7) and Clause (9) of Part I of Second Schedule of Chartered Accountant Act 1949.

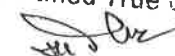
&

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR V. CHITALE)
MEMBER

DATE: 10th February, 2020
PLACE: New Delhi

Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Directorate
Chartered Accountants of India
Marg, New Delhi-110 002

