



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

[PPR/P/68/14-DD/15/INF/15-DC/770/18]

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.

PPR/P/68/14-DD/15/INF/15-DC/770/18

In the matter of:

**CA. Amit Omprakash Kalantri (M. No. 133877),
M/s. Amit O. Kalantri and Co., Sangamner (Dist. Ahmednagar) in Re:**

Office No.2, Surya Sankul

Bazar Peth, Sangamner

AHMEDNAGAR - 422 605

.....Respondent

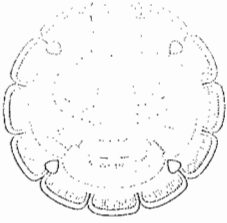
MEMBERS PRESENT:

1. CA. Atul Kumar Gupta, Presiding Officer
2. CA. Amarjit Chopra, Government Nominee
3. CA. Rajendra Kumar P, Member
4. CA. Pramod Kumar Boob, 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 16.12.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Amit Omprakash Kalantri (M. No. 133877)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I 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 21st February, 2020 was sent to him thereby granting an opportunity of being heard in person and/or to make oral/ written representation before the Committee on 2nd March, 2020 at Delhi/Mumbai.

CA. Amit Omprakash Kalantri (M. No. 133877), Ahmednagar



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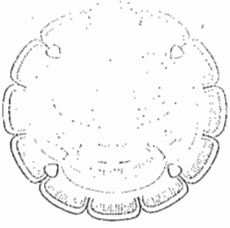
3. The Respondent was present before the Committee in Mumbai office of ICAI through video conferencing mode.

4. The Committee noted the submissions made by the Respondent, brief of which is as follows:-

- i. The Respondent requested to reconsider the case.
- ii. The Respondent submitted that the report pertains to the year 2009 and the provisions of Companies Act 2013 were not applicable to such report.
- iii. The Respondent submitted that he became Chartered Accountant in the year 2009 and the report pertains to 2010. He was having experience of only one-year post qualification & hence, his case could kindly be considered mercifully as he was being a young professional.
- iv. The Respondent requested the Committee to take a lenient view in the said matter.

5. The Committee perused the above facts and was of the view that the Respondent considered the value of the land in the calculation of net worth of the Company which was not actually been owned by the Company and issued Net Worth Certificate without giving any specific disclosures with regards to the fact of title of land considered in Net Worth calculation to draw the attention of the users of the said Certificate.

6. In view of the above, the Committee is of the opinion that the Respondent has not exercised any due diligence while issuing the Net Worth Certificate to the said Company. Based on the above findings the Respondent was held guilty of professional misconduct and the Committee is of the view that the ends of justice will be met, if the punishment awarded to the Respondent is commensurate with the seriousness of the nature of the misconduct.



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6. Thus, keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent before it, the Committee ordered that the name of the Respondent i.e. CA. Amit Omprakash Kalantri (M. No. 133877) be removed from the register of members for a period of 03 (Three) months.

2

Sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-


(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-

(CA. PRAMOD KUMAR BOOB)
MEMBER

DATE : 02/03/2020

PLACE : Delhi

Certified Copy,

Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002

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. : [PPR/P/68/14/DD/15/INF/15/DC/770/2018]

In the matter of:

CA. Amit Omprakash Kalantri (M. No. 133877),
M/s. Amit O. Kalantri and Co., Sangamner (Dist. Ahmednagar) in Re:
Office No.2, Surya Sankul
Bazar Peth, Sangamner
AHMEDNAGAR - 422 605

.....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 : 20.07.2019

PLACE OF FINAL HEARING : ICAI Tower, Mumbai

PARTIES PRESENT

: CA. Amit Omprakash Kalantri (Respondent)
: Shri Shashikant V. Barbe, Advocate (Counsel for
the Respondent)





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 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. This case which was initiated with the complaint from the Shri Sanjai Bajpai, Ministry of Food Processing Industries, New Delhi. As further details were not provided, the case was converted into "information" within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
3. The present case relates to the allegation on the respondent for issuing certificate of net worth without properly verifying the title of the assets of M/s. Daulat Agro (India) Agro Private Limited. Net worth certificate issued by the Respondent on 31.07.2010 of the aforesaid company is Rs.2112.32 lakhs, which includes Rs.1888.73 lakhs of various lands, where the Company does not have title of the aforesaid land rather these lands are registered in the name of the Directors of the Company.

Brief facts of the Proceedings:

4. On the day of hearing i.e. 20/07/2019, CA. Amit Omprakash Kalantri (the Respondent) along with Counsel appeared before the Committee. The Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wishes the charge to be read out or it can be taken as read. The Respondent stated before the Committee that he was aware of the charges made against him and same may be taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative.





Thereafter, the Respondent placed his defence and after considering all papers available on record, the Committee decided to proceed with the matter.

Findings of the Committee

5. The Committee noted that the Respondent appeared before the Committee and submitted that even though all these alleged land does not belong to the Company except one which is situated at village Khandarmalwadi, Tal Sandamner, Dist. Ahmednagar, Maharashtra. The said land is duly registered in the name of the Company. The Committee found that the Respondent considered all these lands for the purpose of issuance of Net Worth Certificate. The Committee noted that in the State of Maharashtra, an agricultural land cannot be acquired by a Company in its name and sale deed can be executed only after the said agricultural land is converted into non-agricultural use. In his submission the Counsel for the Respondent stated that the said Company have executed an "Agreement to Sale" for the land purchased which is notarized but not registered due to the reason stated above. The Respondent further contended that the consideration for the land purchased was to be discharged by issue of shares of said Company, hence, instead of showing the consideration payable as liability; it is shown as 'Share Application Money.' Accordingly, the value of such land is considered in the calculation of the net worth of the Company in the Net Worth Certificate.
6. The Counsel for the Respondent submitted that the Director Discipline in Prima-Facie Opinion alleged of not following 'Professional Skepticism' whereas the charge under Clause 7 of Part I of Second Schedule only speaks about 'due diligence' and 'grossly negligent', hence charges needs to be dropped.
7. The Committee after hearing the oral submission as well as documents on record noted that the moot question in the present case is that whether share application money can be treated as net worth of the company. The answer to the Moot question is Net Worth includes only Share Capital and Reserve but

does not include Share Application Money. As per The Companies Act, 2013 Section 2 (57) contains :-

'net worth' means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

8. Further the Committee noted that the Respondent considered value of the land in the calculation of net worth of the Company, not owned by the Company and issued Net worth Certificate without giving any specific disclosures which may draw the attention of the users of the said Certificate.

Conclusion

9. Thus, the Committee is of the opinion that the Respondent is grossly negligent in performing his duty and as he has not exercised his due diligence while issuing Net worth certificate of the said Company. 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. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE : 16-12-2019
PLACE : New Delhi

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
Bhawan, I.P. Marg, New Delhi-110 002