



[PPR/P/70/14-DD/48/INF/14-DC/558/2017]

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/70/14-DD/48/INF/14-DC/558/2017

In the matter of:

**CA. Yuvaraj Kumar Agarwala (M. No. 010397),
Ground Floor, Mitra Kunj,
16, Pedder Road,
MUMBAI – 400 026.**

..... 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 08.02.2018, the Disciplinary Committee was inter-alia of the opinion that **CA. Yuvaraj Kumar Agarwala (M. No. 010397)** (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.

3. That **CA. Yuvaraj Kumar Agarwala** appeared before the Committee on 2nd March, 2020 by opting option of Video Conferencing.

CA. Yuvaraj Kumar Agarwala (M.No. 010397), Mumbai



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/70/14-DD/48/INF/14-DC/558/2017]

4. The Committee noted that **CA. Yuvaraj Kumar Agarwala** submitted that fraud was committed upon him and he signed the papers by relying upon another professional and requested for lenient view.

5. The Committee is thus of the view that the misconduct on the part of **CA. Yuvaraj Kumar Agarwala** has been established yet taking into consideration the repentant attitude of **CA. Yuvaraj Kumar Agarwala** at the time of hearing and also his age, the Committee is of the view that the ends of justice would be served if the professional misconduct on the part of the Respondent is met with reasonable punishment.

6. Accordingly, the Committee ordered that the name of the Respondent i.e. **CA. Yuvaraj Kumar Agarwala (M. No. 010397)** be removed from the register of members for a period of **01 (one) month**.

113
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
Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002

CONFIDENTIAL

THE DISCIPLINARY COMMITTEE (BENCH – II)

[Constituted under Section 21B of the Chartered Accountants (Amendment)
Act, 2006]

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/70/2014/DD/48/INF/14/DC/558/2017]

CA. Yuvaraj Kumar Agarwala (M. No. 010397) in Re.:

Ground Floor, Mitra Kunj,

16, Pedder Road,

MUMBAI – 400 026.

.....

Respondent

MEMBERS PRESENT:

CA. Naveen ND Gupta, Presiding Officer

Shri Amit Chatterjee, Government Nominee

Mrs. Bindu Agnihotri, Government Nominee

CA. Sanjay Kumar Agarwal, Member

CA. Manu Agarwal, Member

DATE OF FINAL HEARING : 07.11.2017

PLACE OF FINAL HEARING : ICAI, BKC, MUMBAI

PARTIES PRESENT:

Respondent : CA. Yuvaraj Kumar Agarwala

Counsel for Respondent : CA. Deepak P. Tikekar



Finding of the Committee

1. The Committee noted from the facts on record and in terms of prima facie opinion in the instant case that the charge against the Respondent is that (a) M/s. IDT Clothing Pvt. Ltd. (hereinafter referred to as the “Company”) has submitted negative statements (certificates) regarding pending shipping bills for realization of export proceeds issued by the Respondent for the period from 01.01.2007 to 30.06.2010. However, as per XOS statement issued by the Reserve Bank of India, Mumbai, four shipping bills (6473210 dated 09.07.2008, 6473226 dated 09.07.2008, 6473253 dated 09.07.2008 and 6473217 dated 09.07.2008) were shown as pending for realization against the same party for the same period for which negative statement was issued by the Respondent.

2. The Committee heard the submissions of the Respondent and duly considered various documents made available on record by both the Informant and the Respondent.

3. On perusal of papers on record, the Committee noted that the Respondent had issued various certificates covering the period 01.01.2007 to 30.06.2010 certifying export of the Company for export shipments. It is noted that in all the certificates NIL report has been certified by the Respondent.

4. Although it is noted that XOS statement of RBI has not been made available by the Informant to the Committee, however, upon perusal of the challan for payment and SBI's certificate dated 05th December, 2013, it is noted that there were four pending bills bearing no. 6473210, 6473226, 6473253, 6473217 dated 19th July, 2008. It is further noted that in the Certificate dated 29th October, 2010 issued by the Respondent for the period from 01.07.2008 to 31.12.2008, he has certified NIL statement of shipping bills and amount.



5. The Committee has perused the submissions of the Respondent wherein he has stated that the certificates were issued by him relying upon the data and documents furnished by internal CA. of the Company, Ms. Mamta Shah and other Directors. The Respondent also stated that he had carried out random checks as the volume of papers was very high.

6. The Committee in this regard referred to provisions of "Guidance Note on Audit Reports and Certificates for Special Purposes" (pre-revised) wherein it has been stated that,

2.2 "A reporting auditor should appreciate the difference between the terms 'certificate' and 'report'. A certificate is a written confirmation of the accuracy of the facts stated therein and does not involve any estimate or opinion. A report, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting auditor's opinion thereon. Thus, when a reporting auditor issues a certificate, he is responsible for the factual accuracy of what is stated therein....."

7. Further, the Respondent before the Committee has submitted that he has no working papers with him as his relations with the Company has turned sour and the Management of the Company is also not cooperating with him in providing documents. He also pleaded that looking to materiality concept and age and past experience of him, the benefit of doubt may be given to him. He further, submitted that there is no loss to exchequer as Company has paid back duty drawback alongwith interest to concerned department.

8. Thus, in the light of above noted facts on record, challans for payment and certificate of SBI dated 5th December, 2013, the defence of the Respondent that he merely certified based on records produced by the Company through another CA is

not acceptable and accordingly, he is guilty of issuing the alleged certificates without applying professional skepticism and due diligence.

Conclusion

9. Thus in the considered opinion of the Committee, the Respondent is **Guilty** of professional misconduct falling within the meaning Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. NAVEEN ND GUPTA)
PRESIDING OFFICER

Sd/-
(SHRI AMIT CHATTERJEE)
GOVERNMENT NOMINEE

Sd/-
(Mrs. BINDU AGNIHOTRI)
GOVERNMENT NOMINEE

Sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

Sd/-
(CA. MANU AGARWAL)
MEMBER

DATE : 08th February, 2018

PLACE : New Delhi

Certified True Copy

Ajay Kumar Jain
Assistant Secretary
Disciplinary Directorate

The Institute of Chartered Accountants of India
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