



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

[PR-310/14/DD/329/2014/DC/599/2017]

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.

[PR-310/14/DD/329/2014/DC/599/2017]

In the matter of:

Shri Om Prakash S Khandelwal,  
10, Tirth Villa,  
Kanjari,  
HALOL – 389 350 (GUJARAT)

.....Complainant

-Vs.-

CA. Harishkumar Bhaishankar Purohit(M.No.036004)  
M/s. HB Purohit & Co.(FRN No.108240W)  
Chartered Accountants,  
A/44, Nildeep Apartments,  
Near Sandesh Press, Bodakhdev,  
AHMEDABAD 380 054.

.....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(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 10.02.2020, the Disciplinary Committee was inter-alia of the opinion that CA. Harishkumar Bhaishankar Purohit(M.No.036004) (hereinafter referred to as the Respondent") was GUILTY of professional misconduct falling within the meaning of Clauses (5), (6), (7) & (8) 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 4<sup>th</sup> March, 2020 was sent to

Shri Om Prakash S Khandelwal – vs – CA. Harishkumar Bhaishankar Purohit (M.No.036004)



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him thereby granting an opportunity of being heard in person and/or to make oral/ written representation before the Committee on 17<sup>th</sup> March, 2020 at Delhi/Mumbai.

3. The Respondent was present before the Committee in person in Delhi office of the Institute of Chartered Accountants of India. The Respondent accepted the guilt on his part without pressing any further arguments in his defense and requested the Committee to consider his case with leniency.

4. The Committee while looking into the matter and the conduct of the Respondent, is of the opinion that as the Respondent has himself accepted the guilt before it in his last opportunity to submit any further submissions in his defense on the decision of the Committee holding him guilty. The Committee accordingly was of the opinion that although there is no financial difference in both the reports and interest of shareholders was not affected, however looking into the fact that the Respondent relied upon work of his junior, he needs to be given reasonable punishment as this act proves his negligence in conducting the audit. Accordingly, the Committee was of the view that the ends of justice shall be met if the name of the Respondent be removed from the Register of Members for a period of 15 days.

5. Therefore, 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. Harishkumar Bhaishankar Purohit (M.No.036004) be removed from the register of members for a period of 15 days.

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

Sd/-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

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

**Certified Copy**  
  
**PARVESH BANSAL**  
Deputy Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
ICAI Bhaban, I.P. Marg, New Delhi-110 002

Sd/-  
(CA. PRAMOD KUMAR BOOB)  
MEMBER

DATE : 17/03/2020

PLACE : Delhi

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-310/14/DD/329/2014/DC/599/2017]

In the matter of:

**Shri Om Prakash S Khandelwal,**  
10, Tirth Villa  
Kanjari,  
HALOL-389 350 (GUJARAT)

..... Complainant

**Versus**

**CA. Harishkumar Bhaishankar Purohit** .....(M. No. 036004)  
M/s HB Purohit & Co (FRN No. 108240W),  
Chartered Accountants ,  
A/44 Nildeep Apartments  
Near Sandesh Press, Bodakhdev  
AHMEDABAD-380 054.

.....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 : 21.07.2019**

**PLACE OF FINAL HEARING : ICAI Tower, Mumbai**

PARTIES PRESENT :





Complainant : Not Present

Respondent : CA. Harishkumar Bhaishankar Purohit

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 had been held Prima Facie not guilty of professional misconduct on the grounds that the Respondent is guilty under Clause 5, 6, 7 and 8 of the Part I of Second Schedule of Chartered Accountant Act 1949. which state as under :-

*(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;*

*(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;*

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

*(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;"*

2. In this case the prime allegation against the Respondent is for preparing two different set of audit reports and failure to report the various disclosures for the year ended 31<sup>st</sup> March, 2004 to 31<sup>st</sup> March, 2011 of Bhagyoday Katha Products Private Ltd.

2.1 In brief, the charges related to disclosure are:

- a) The first charge relates to the issuance of two different audit reports by the Respondent on different letter heads for the same financial year ended on 31<sup>st</sup>

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March, 2008. Also this charge states that to one audit report stated *CARO is not applicable to the Company* whereas the other Audit report for the same year uploaded to ROC portal stated *"As required by the Manufacturing and other Companies (Auditors' Report) Order, 1988 issued by the Central Government of India in terms of sections 227 (4-A) of the Companies Act, 1956, we give in the annexure, a statement on the matters specified in paragraph 4 & 5 of the said order."*

- b) The other charge is relating to the maintenance of cost records by the company as mentioned in the Audit Reports of the Company for Financial Years ending on 31st Mar, 2004 to 31st March, 2007. Further for financial year 2008-09 along the Respondent has stated that maintenance of cost records is not applicable. Therefore, the role of the Respondent for his alleged negligence needs to be enquired further on this charge.
- c) One another charge is that the Respondent reporting in the Audit report that *"In our opinion, the terms and conditions on which the Company has given guarantees for loans taken by others from Banks or financial institutions are not prejudicial to interest of the Company."* whereas the Company had not given guarantees for loans taken by others from Banks or financial institutions.
- d) Subsequent charge relates to the reporting in the annexure to Audit Report for Financial Year ended 31<sup>st</sup> Mar, 2008 and 31<sup>st</sup> Mar, 2009, it was wrongly reported by the Respondent that *the Company has made preferential allotment of shares to parties and companies covered in the register maintained under Section 301 of the Act whereas there was no issuance of share capital as there was no change in the authorized and paid up share capital of the Company.*
- e) Subsequent charge relates to the Respondent's wrong reporting in the Annexure to Audit Report for Financial Year ended 31st Mar, 2008 and 31st Mar, 2009 that *"We have verified the end use of money raised by public issue*

as disclosed in the notes to the financial statement” whereas the Company had not raised money by public issue in any of the financial years.

- f) Lastly, there is a charge relating to complying with the provisions of sections 58A and 58AA of the Companies Act, 1956 and the Companies (Acceptance of Deposit) Rules, 1975 with regard to the deposits accepted from the public by the company.

**Brief facts of the Proceedings:**

3. On the day of hearing, the Complainant was not present; on other side, the Respondent appeared before the Committee. The Respondent was put on oath. In the absence 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 positive. Thereafter, the Committee sought whether he wishes to proceed with his defence. Thereafter, the Respondent placed his defence on table. After considering all papers available on record, the Committee decided to conclude the matter.

**Findings of the Committee**

4. On the matter stated above this committee noted that, at the time of hearing the respondent appeared before this committee and when it was being asked whether he plead guilty, the Respondent accepted his Guilt under Rule 18(8) of Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules 2007 also letter dated 21<sup>st</sup> September is placed on record wherein the Respondent has accepted his guilt and prayed the Committee to take a lenient view in the matter.
5. The Committee noted the Respondent submission that he relied upon his juniors who used to prepare the reports and the Respondent signed the same believing that everything has been taken care of. The Respondent also submitted that because of all these incorrect disclosures, which are more of

the positive disclosures, even not required for the alleged Company, they do not harm the interest of any stake-holder including the Company for which he conducted the audit.

6. The Committee noted that with regards to the first allegation for the issuance of two different audit reports by the Respondent on different letter heads for the same financial year and also noted that allegation relating to one audit report stated *CARO is not applicable on the company* whereas the other Audit report for the same year uploaded to ROC portal stated *"As required by the Manufacturing and other Companies (Auditors' Report) Order, 1988 issued by the Central Government of India in terms of sections 227 (4-A) of the Companies Act, 1956, we give in the annexure, a statement on the matters specified in paragraph 4 & 5 of the said order."* The Respondent submitted that the Respondent submitted that for the two different sets of audit report, he withdrew the earlier set because of certain mistakes and wanted to destroy the first draft and there is no harm caused to anyone from the same.
7. The Committee noted that with regards to the next allegation for maintenance of cost records by the Company as mentioned in the audit reports of the Company for Financial Years ending on 31st Mar, 2004 to 31st March, 2007. Further for financial year 2008-09 the Respondent has stated that maintenance of cost records is not applicable. The Respondent submits that that the Company has maintained cost record as required by Central Government. As the Central Government has not prescribed such records, therefore it cannot be treated as misstatement given by him.
8. The Committee noted that with regard to next charge relating to reporting in the Audit report of the Company that *"the terms and conditions on which the Company has given guarantees for loans taken by others from Banks or financial institutions are not prejudicial to interest of the Company."* whereas *the Company had not given guarantees for loans taken by others from Banks or financial institutions.* The Respondent submits that the Company granted loans in cash which was not reported in the books. But the Respondent fails to make suitable disclosure in his audit report regarding the same. ✓

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9. The Committee noted that with regards to the reporting in the annexure to Audit Report has wrongly reported that "*the Company has made preferential allotment of shares to parties and companies covered in the register maintained under Section 301 of the Act whereas there was no issuance of share capital as there was no change in the authorized and paid up share capital of the Company.* The Respondent submits that he mentioned in his audit report *preferential allotment of shares* by the company on the basis of the written representation from one of the directors of the Company but fails to verify the minutes book and other relevant records from which it would have been clear to him that no preferential allotment has been made.
10. The Committee noted that regarding next charge which relates to the Respondent's wrong reporting in the Annexure to Audit Report wherein he has mentioned that "We have verified the end use of money raised by public issue as disclosed in the notes to the financial statement" whereas the Company had not raised money by public issue in any of the financial years. The Respondent during his written statement has accepted his mistake. The Committee observe that the Respondent did not exercise his due diligence while performing his professional endeavour.
11. The Committee noted that with regards to next charge the Respondent has mentioned in the audit report that the company has complied with the provisions of sections 58A and 58AA of the Companies Act, 1956 which were not applicable to the company. The Respondent failed to provide specific submission in this regard. The Committee noted that the Respondent was grossly negligent while performing his Audit assignment.
12. In view of the above the Committee, after noting the acceptance of guilt by the Respondent viewed the various disclosures being made in Audit Reports and is of the considered opinion that though the disclosures are not detrimental to the interest of any stake-holder still display or reflect the wrong presentation about the nature/facts about the Company. The Committee holds the Respondent guilty on all above charges. ✓

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Conclusion

13. Thus, upon consideration of all facts, circumstances, record and law and acceptance of being guilty by the Respondent. In the considered opinion of the Committee, and the reasoning as stated above para, the Respondent is held **GUILTY** in terms Clause 5, 6, 7 and 8 of the 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. RAJENDRA KUMAR P)**  
**MEMBER**

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: 10<sup>th</sup> February, 2020**  
**PLACE: NEW DELHI**

