

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. : [PRP/P/102-C/15/DD/73/INF/16-DC/660/2017]

In the matter of:

CA. Janakkumar Shantilal Soni (M. No. 110003) in Re:
Proprietor of M/s Janak Soni & Associates,
106, 1st Floor,
Haash Complex,
Nr. Ellisbridge Police Line,
Nr. Nagari Hospital & Law Garden,
Ellisbridge,
AHMEDABAD-380 006.

.....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 : **CA. Janakkumar Shantilal Soni (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. The said clause (7) 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 Additional Commissioner of Income Tax later on, it was treated as “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 the Form No. 3CB and 3CD in respect of two firms that is M/s R.S. Enterprises and M/s Mahavir Enterprises for the years ended 31st March,2011 and 31st March,2012 without applying proper due diligence.

Brief facts of the Proceedings:

4. On the day of hearing i.e. 21/07/2019, CA. Janakkumar Shantilal Soni (the Respondent) 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 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 proceed with the matter.

Findings of the Committee

5. The Committee noted that the Respondent appeared before this Committee and submitted that three things while asking the charge levied against him namely that nobody knows him in the alleged Company namely "Pradeep Overseas Ltd" and secondly Mr. Kandar Murli and Mr. Parik both are doing this circular planning and they both were also not in his touch during his audit assignment, and thirdly the client was also not in his touch. The Company was represented by accountant. The Respondent added that he was called upon by Income Tax Officer in scrutiny after that he is able to know all people but was still unaware about the Company.
6. The Committee noted that the assignment handled by the Respondent was based upon the data received from the accountant also the Respondent accepted before the committee that he never physically visited the Company but address was known to him as it was documented on various authorities' documents such as Income Tax authorities, VAT Registration etc. The Respondent submitted that he is not aware who is the proprietor of these firms as the accountant of the firm used to produce all the documents before him to get the audit conducted and not carried out the other audit aspects like stock verification, personal visit etc. asked by the Committee.
7. The Committee noted the Respondent's submission that he has followed all the procedures systematically and have conducted 100 per cent verification of opening balances, vouchers, ledgers and other records. Specific query was raised by the Committee that whether (i) he has obtained any management representation letter, (ii) conducted the physical verification of stock, (iii) Value of inventory (iv) confirmation of debtors and creditors, (v) physical visit to the premises of audited firm, (vi) verification Bank/Cash balances. Responding to above query the Respondent replied in negative.
8. The committee further noted that in his submission the Respondent stated that he never visited the premises of these firms neither conducted any physical verification of stock nor valued the inventories. The committee also

noted that in alleged year 2010-2011 in the books of M/s Mahavir Enterprises credit balance of M/s R.S. Enterprise was Rs.65,00,000/- whereas in the same year in books of R.S. Enterprises the credit balance of M/s Mahavir Enterprise was shown as only Rs.1,49,808/-. The Respondent has audited both the entities from the record which is made available to him by the accountant. He could not produce any reconciliation statement for differences. This also clearly depicts the gross negligence on the part of the Respondent.

Conclusion

9. Thus, upon consideration of all facts, circumstances, record and law, the Committee is of the opinion that the Respondent is grossly negligent in issuing the Form No. 3CB and 3CD in respect of two firms that is M/s R.S. Enterprises and M/s Mahavir Enterprises and also verifying the stock, cash in hand, bank balance and failed to obtain confirmation from the third party in relation to debtors and creditors. Even the owner of these firms and premises was not known to the Respondent which clearly shows his participation in falsification of accounts and creation of fabricated accounts with ulterior motive. 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.

18

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: 10/02/2020
PLACE: NEW DELHI

Certified Copy
Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate
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ICAI Bhawan, I.P. Marg, New Delhi-110 002
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Disciplinary Directorate of India
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110 002



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

[PRP/P/102-C/15/DD/73/INF/16-DC/660/2017]

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.

[PRP/P/102-C/15/DD/73/INF/16-DC/660/2017]

CA. Janakkumar Shantilal Soni (M. No. 110003) in Re:

Proprietor of M/s Janak Soni & Associates,

106,1st Floor,

Haash Complex,

Nr. Ellisbridge Police Line,

Nr. Nagari Hospital & Law Garden,

Ellisbridge,

AHMEDABAD-380 006.

.....Respondent

MEMBERS PRESENT:

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. Shri Rajeev Kher, I.A.S. (Retd.), Government Nominee**
- 3. CA. Amarjit Chopra, Government Nominee**
- 4. CA. Rajendra Kumar P, Member**
- 5. CA. Pramod Kumar Boob, Member**

DATE OF MEETING : 03.07.2020 (Through Video Conferencing)

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

CA. Janakkumar Shantilal Soni (M. No. 110003) in Re:



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[PRP/P/102-C/15/DD/73/INF/16-DC/660/2017]

10.02.2020, the Disciplinary Committee was inter-alia of the opinion that **CA. Janakkumar Shantilal Soni (M. No. 110003)** (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 Accountant Act, 1949.

2. The Respondent was present before the Committee in Ahmedabad office of ICAI through video conferencing mode. The respondent stated that he has already submitted his written statement in response to the findings of the committee. In addition to that he submitted a copy of the Bank Statement before the Committee. With regards to non-matching of debtors and creditors balances, non-verification of cash and stock, he submitted that he had mentioned everything in the notes forming part of the accounts. On being questioned about non visiting the premises of the party, he submitted that he had qualified the same fact in Form 3CD. He confessed before the committee that he never visited the premises of the client and the areas which he could not audit, he had mentioned the same in the notes forming part of the accounts. On further questioning by the committee as to whether he mentioned such facts in the notes or qualified in his report, he mentioned that he did not qualify the audit report but mentioned the facts in the notes to accounts.

3. The Committee while looking into the matter and the conduct of the Respondent, is of the opinion that Respondent is grossly negligent in issuing 3CD Report in respect of two firms viz. M/s R.S. Enterprises and M/s Mahavir Enterprises and also in verification of stock, cash in hand, bank balance and failed to obtain confirmation from the third parties in relation with debtors and creditors. Even the owner of these firms and premises were not known to the Respondent which clearly shows his involvement in the falsification of accounts and creation of fabricated accounts. Hence, the Committee is of the view that apart from showing casual behavior while

CA. Janakkumar Shantilal Soni (M. No. 110003) in Re:



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performing audit assignments the Respondent was also grossly negligent in the conduct of his professional duties. Accordingly, ends of justice will be met if reasonable is punished.

4. 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. Janakkumar Shantilal Soni (M. No. 110003) be removed from the register of members for a period of 03 (Three) Years.

sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

sd/-

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

sd/-

(SHRI RAJEEV KHER, I.A.S. RETD.)
GOVERNMENT NOMINEE

(approved & confirmed through email)
(CA. RAJENDRA KUMAR P)
MEMBER

(approved & confirmed through email)
(CA. PRAMOD KUMAR BOOB)
MEMBER

Certified to be true copy


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