THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PRP-284/14-DD/301/2014/DC/637/17]

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-284/14-DD/301/2014/DC/637/17]

Shri. Snehal Thakkar,
E-606, Agarwal Residency,
Shankar Lane,
Kandivali (East)
MUMBAI 400 067. **.....Complainant**

Versus

CA. Shripad Sitaram Puranik (M. No.030670)
501/502, Lotus Business Park,
Rambaug Lane,
Off S.V. Road,
Malad (West)
MUMBAI 400 064. **.....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**

DATE OF MEETING : 07.08.2020 (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 10.02.2020 the Disciplinary Committee was inter-alia of the opinion that **CA. Shripad Sitaram Puranik (M. No.030670)** (hereinafter referred to as the **"Respondent"**) was **GUILTY** of professional misconduct falling within the meaning of Items (5) and (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.

2. The Respondent was present before the Committee in the Mumbai office of ICAI through video conferencing mode. On being asked about his submissions in his defense, if any, with respect to reporting of alleged fraud, he submitted that, as a Chartered Accountant, he had done his duty and he had reported on the basis of the details provided to him. He added that he was

CA. Shripad Sitaram Puranik (M. No.030670):

dragged in the entire episode and was made a scapegoat as the Complainant used to stay in the same building where the Directors resides and they have got some personal issues among themselves. He further submitted that he came to know about this situation later in 2019.

3. The Committee while looking into the merit of the case and submissions of the Respondent in the light of his conduct before it, was of the opinion that the Respondent has remained failed not only in verifying the Inter Corporate Deposit (ICD), its terms & conditions etc. but has also remained failed to produce the relevant working papers to substantiate his defense in relation with verification of such transactions of ICDs. Though, the Committee was of the view that nothing has been brought before it to prove the involvement of the Respondent in the alleged fraud in his personal capacity, yet, it is inferred that there is gross negligence on his part for not reporting the ICD transactions or the other advances being extended continuously for more than two years. Further, neither the confirmations from the other parties within such ICD arrangement was obtained as required under the requirements of SA-505 nor did he qualify his audit report with regards to non-obtaining of any such cross confirmations. Hence, the Committee is of the view that apart from non-reporting of ICD the Respondent failed to provide satisfactory reply for the same, and also while performing audit assignments the Respondent was also grossly negligent in the conduct of his professional duties. Accordingly, ends of justice can be met if reasonable punishment is awarded.

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. Shripad Sitaram Puranik (M. No.030670) be removed from the register of members for a period of 06 (Six) Months along with the fine of Rs.1,00,000/- (One Lakh Rupees only), to be payable within 30 days from receipt of the Order.

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

(approved & confirmed through email)
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

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

Certified to be true copy
Jyotika Grover
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]
[Constituted under Section 21B of the Chartered Accountants 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-284/14-DD/301/2014/DC/637/17]

In the matter of:

Shri Snehal Thakkar,
E-606, Agarwal Residency,
Shankar Lane,
Kandivali (West),
Mumbai – 400 067

...Complainant

Versus

CA.Shripad Sitaram Puranik (M.No.030670)
501/502 Lotus Business Park
Rambaug Lane
Off S V Road
Malad (West)
MUMBAI - 400 064

.....Respondent

MEMBERS PRESENT:

CA. ATUL KUMAR GUPTA, PRESIDING OFFICER,

CA. AMARJIT CHOPA, GOVERNMENT NOMINEE

CA. CHANDRASHEKHAR VASANT CHITALE, MEMBER

DATE OF FINAL HEARING/ORDER : 24.06.2019

PLACE OF FINAL HEARING/ORDER : ICAI, Mumbai

PARTIES PRESENT:

Complainant	:	**Shri Snehal Thakkar,**
Respondent	:	**CA. Shripad Sitaram Puranik,**
Counsel for the Respondent	:	**Shri S.G. Gokhale, Advocate**

BRIEF OF THE DISCIPLINARY COMMITTEE PROCEEDINGS:-

1. On the day of hearing held on 8th May, 2019, the Committee noted that the Complainant was present. The Respondent along with his Counsel was present. The Complainant and the Respondent were put on oath. On being enquired from the Respondent as to whether he is aware of the charges leveled against him, the Respondent replied in affirmative and pleaded not guilty. The Complainant made his submissions to substantiate the charges and the Counsel for the Respondent, thereafter, made submissions in defence. The Committee posed some questions to the Complainant and the Respondent. After hearing the submissions, the Committee directed the Respondent to submit copy of letters written by Sejal Glass Ltd to Cybertech Interactive Limited, Aphantome Impex Pvt. Ltd, Prassanna Trading Private Limited and Jekay products about balance confirmation, within 10 days of the hearing. With this, the hearing in the matter was part heard & adjourned.

2. On the date of next hearing held on 24th June, 2019, the Committee noted that the Complainant was present. The Respondent along with his Counsel was present. When hearing in the matter commenced from the stage as it was left in last hearing, no parties raised objection to the same. The Complainant and Counsel for the Respondent made their respective submissions. The Committee also posed questions to the Complainant and the Respondent. After hearing the submissions of the Complainant and the Respondent, the Committee directed the Respondent to submit his final submissions, if any, within 7 days of hearing. With this, the hearing in the matter was concluded.

CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-

3. As regard the role of the Respondent in the instant matter, the Committee noted that the Respondent was the auditor of Sejal Glass Limited (hereinafter referred to as the **"Company"**) for the financial year 2011-12. The Complainant made allegations that the Respondent failed to fulfill his duties as auditor of the Company. As regard the charges leveled against the Respondent, the Committee noted that the Respondent was held prima facie guilty in respect of the following charges:-

   i. No documents are verified by the Respondent firm in respect of Inter corporate Deposit (ICD) given by the Company to M/s Cybertech Interactive Limited. M/s. Cybertech Interactive Limited (ICD receiver) denied the confirmation through e-mail to the Company **(C-4)** and the Respondent Firm. But no action was taken by the Respondent Firm. No interest or TDS certificate was received from last 3

years from M/s Cybertech Interactive Limited. Although company claims credit in balance sheet. The Respondent firm did not take any action nor mentioned in any auditor's report. The Company claims interest receivable from M/s Cybertech Interactive Limited. Such claims can be verified easily through AS24 (sic. 26AS), auditors did not verified that also.

ii. No documents are verified by the Respondent firm in respect of Inter corporate Deposit (ICD) given by the Company to M/s. Prassanna Trading Pvt. Ltd. As per the knowledge of the Complainant the ICD were given without legal paper.

iii. No documents are verified by the Respondent firm in respect of Inter corporate Deposit (ICD) given by the Company to M/s. Aphentome Impex Pvt. Ltd. As per the knowledge of the Complainant the ICD were given without legal paper.

iv. Further, ICD were given to Jekay products, proprietorship firm. A Company cannot give any loan to a proprietorship firm in any manner. The simple law is not followed by the Respondent Firm.

v. The Respondent firm was totally involved in the fraud by wrong adjustment of money of the Company.

FINDINGS OF THE DISCIPLINARY COMMITTEE:-

4. The Committee noted that the Complainant submitted the following contentions/submissions in support of the charges:-

i) The Complainant in his submissions stated that he is shareholder of Sejal Glass Limited (hereinafter referred to as the **"Company"**). The Company has given some funds to four companies. As per information given to the NSE, the same was Inter Corporate Deposit (ICD) given to the group companies. He stated that he has nothing to do with the aforesaid transactions of the Company but the Company had written a letter to him regarding confirmation of balance. He wrote a letter to the Company as to why they had written letter to him but he has not received any reply from the Company. The Complainant stated that as per the Respondent, the payments were made for purchase of goods. The Complainant also stated that ICD was given to Cybertech Interactive Limited, Aphentom Impex Ltd, Prassanna Trading Pvt. Ltd and Jekay Products and all these companies are bogus companies.

5. The Respondent through his written as well as oral arguments made following submissions in his defence:-

5.1 In respect of first charge relating to non-verification of documents by the Respondent in respect of ICD to Cybertech Interactive Ltd and non-verification of interest income on ICD, the Respondent stated that ICD of Rs.12.50 lakh were given to Cybertech Interactive Limited by the Company which was verified from the bank transactions. The amount as disclosed in the Balance Sheet is the principal amount of Rs.12.50 lakhs (under note 13(d) to the notes to accounts) and the interest component for the said party of Rs.1,25,835/- was grouped under Note 19(a)(i) under interest accrued on deposits **(D-148)**.

5.1.1 The Respondent stated that the Company while issuing letter to Cybertech Interactive Ltd for confirmation of balance as on 31st March, 2012, 2013, 2014, clubbed the amount of principle and interest. Though the amount was clubbed in balance confirmation letter but as per his opinion, there was no error in disclosing the clubbed amount in the Balance Confirmation letter including Interest due from the party.

5.2 In respect of charge related to non-receipt of interest and non-deduction of TDS and non-receipt of confirmation by Cybertech Interactive Ltd, the Respondent stated that non-receipt of interest and non-deduction of TDS by deductors (Cybertech) is not a matter that was required to be highlighted in the audit report. Also it is obligatory on part of the deductors to deduct tax. If Cybertech Interactive Ltd failed to deduct tax on the amount of interest, the same is not necessarily required to be pointed out in audit report of the Company.

5.3 During the finalization of audit for the year ended 31st March, 2014, he received an email from Shri Snehal Thakkar, which read as follows:-

> *"we received your letter of confirmation for Cybertech Interactive Ltd., for which I would like to state that I totally disagree with this confirmation, because this is just a book entry, My Company has no liabilities in this regards. So that it also does not reflect in our book of account".*

5.4 The Respondent stated that he was surprised to receive such email from Shri Snehal Thakkar (the Complainant) and the matter contained in the email made him to believe that Shri Snehal Thakkar is part of the Company or at least an authorized employee of the Company Cybertech Interactive Ltd. However, later, the Respondent was informed by the Company, that Shri Snehal Thakkar is nobody in Cybertech Interactive Ltd except

[illegible] arranged the FCD transaction between the Company and Cybertech Interacive Ltd and hence the said email should be ignored. He however insisted the Company to make a provision of at least 25% as the liability was denied by Cybertech Interactive Ltd. Accordingly, a provision of Rs. 8.5 crore for the financial year ended 31.3.2014 was made against various accounts. He also qualified his audit report for absence of confirmations in respect of Sundry Debtors, Sundry Creditors, Loan and advances given and Inter Corporate Deposits (excluding group companies).

5.5 The Respondent further stated that we had written to the Company (Sejal Glass Limited) on 21st April, 2015 in respect of the claims made in the emails disputing the liability. The Company also issued Legal Notice for recovery of their dues (ANN. 14 to 22). Looking at the above circumstances, he insisted the Company to make 100% provision in respect of Cybertech Interactive Limited and the same was done and approved by the Board of Directors in the financials for the year ended 31st march, 2015.

5.6 In respect of amount given to other companies, the Respondent stated that the amounts given to the other three companies i.e., Aphentom Impex Ltd, Prassanna Trading Pvt. Ltd and Jekay Products were trade advance for the purchase of Silicone Sealant Base and "Butyl". These advance payments were made by the Company against legitimate purchase orders and the payments were to these parties either through account payee cheques and RTGS. The existence of purchase orders and transfer of funds through proper banking channels and the normal procedure followed by the company for issuance of purchase orders did not make him any suspicious for the said transaction.

5.7 The Respondent stated that he while reporting on the financial statements for the year ended 31.03.2014 qualified his report for absence of confirmation for those advances given as the confirmations were not received from the aforesaid companies. Since the goods was not supplied to the Company and no repayment was made to the Company, in the financial year 2013-14, a provisions for 25% of the amount of advance was made in the account. Since nothing has happened in the subsequent year 2014-15, at his insistence, 100% provisioning were made by the Company.

5.8. During the course of the enquiry, the Respondent stated that the above mentioned companies were not group companies and for non-supply of goods and non-repayment of advance, the Company has not filed any case against the companies. He also stated that every year, the Company has written letters to the parties for confirmation of balance.

5.9 When the Committee enquired from the Respondent as to whether he has received balance confirmations from the parties, the Respondent stated that he has not received any reply from the parties under questions. To a question as to how he made 100% provisions in the books without any litigation with the parties, the Respondent stated that the issue of making 100% provisions was discussed in audit committee meeting and after discussions, provisions was made in the books of account. The Respondent stated that after signing the balance sheet of March, 2015, he has resigned from the Company.

5.10 The Respondent stated that as per his knowledge, there was no agreement for the ICD. To a further question as to how he checked and verified the rate of interest of ICD, the Respondent could not give satisfactorily reply. The Respondent also stated that TDS could not be booked as TDS certificate was not received by the Company.

6. After taking into consideration all the facts and submissions on record, the Committee noted that the charges leveled against the Respondent can be categorized into following categories:-

i) Charges related to non-verification of amount given as ICD to Cybertech Interactive and other three companies, namely Aphentom Impex Ltd, Prassanna Trading Pvt Ltd and Jekay Products.

ii) Charges related to non-verification of amount of interest and TDS thereon.

iii) The Respondent was involved in fraud committed by the Company.

6.1 In respect of above charges, the main defence of the Respondent was that the Company had sent letter for confirmation of balance to the above mentioned companies but no confirmation was received by him. The Respondent also stated that when re-payment has not been made and supply of goods were not made by the parties in next 3 years, he insisted the Company to make 25% provisions on the outstanding amount in 2014. In next year, when one of the party (Cybertech Interactive Ltd) has disputed the outstanding amount and the audit committee has taken decision of making 100% provisions against the outstanding amount, 100% provisions was made in the financial statement for the year ending 31.03.2015.

6.2 On perusal of the audit report for the financial years 2011-12 to 2012-13, it has been observed that the Respondent has given clean report for the aforesaid years and in respect of the financial year 2013-14, the Respondent issued qualified report stating therein that *"the Company has not obtained balance confirmations in respect of Sundry*

Details of Sundry Debtors, Loans and Advances given and Inter Corporate Deposits *(excluding Group companies)*". As per the Respondent, in the next financial year 2014-15, provisions for entire 100% outstanding was made in the financial statement in view of non-recovery of ICD and advances.

6.3 The Committee noted that the Company has given Inter Corporate Deposit to Cybertech Interactive Ltd and the Respondent could not produce any agreement with regard to terms and conditions of ICD including rate of interest thereon. The Respondent claimed that the amount given to other three companies under question was trade advance. In support of his claim, he brought on record copy of Purchase order in favour of Prassanna Trading pvt Ltd and Aphantome Impex Pvt Ltd dated 07.11.2011 for Rs.1,25,03,400/- and Rs.1,00,16,500/- respectively to establish that Prassanna Trading Pvt. Ltd and Aphantome Impex Pvt Ltd were supplier. In respect of Jekay Products also, the Respondent claimed that it was trade advance. However, he could not give reply to the question as to why supply of goods was not made even after 3 years and as to why the Company has not taken any legal action for recovery of advance and/ or supply of goods and the same raise doubt on the nature of advance given to these companies.

6.4 In view of the Respondent's admissions that no response was received by the Company for 3 years and no agreement was there for ICD, it is viewed that the Respondent was required to exercise his professional skepticism while verifying the details of ICD and advances given to the Companies, specifically when the Company without filing any court case for recovery of the amount given to the companies, has made provisions of 25% on outstanding amount and also made provisions for entire amount in next year. It is also relevant to mention here that it appears that no payment of interest has been made and no TDS was deducted on the amount of interest. The aforesaid facts clearly raised questions on the recoverability of the amount given as ICD and advances and indicates towards frauds involved in the aforesaid transactions. The Respondent as auditor failed to qualify his report in respect of various discrepancies related to the transactions with aforesaid four companies and appears to have just relied upon the management representations. If the auditor had performed his duties diligently he would have been able to point out the authenticity of the transactions in audit report. Accordingly, the Committee is of the view that the Respondent is guilty of professional misconduct falling within the meaning of Clause (5) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

7. Thus in the considered opinion of the Committee, the Respondent is GUILTY of professional misconduct falling within the meaning Clauses (5) & (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASHEKHAR VASANT CHITALE)
MEMBER

DATE : 10-02-2020
PLACE : New Delhi

Certified Copy

Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate
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