



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

[PRP-78/14-DD/140/14-DC/712/17]

**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-78/14-DD/140/14-DC/712/17]

Shri Hasmukh B. Barot,
8, Sangeet Building,
128, Model Town,
Off. JP Road, Andheri (West),
Mumbai – 400 053

.....Complainant

-Vs.-

CA. Hrushikesh Vinayak Deodhar (M.No.125625)
Gopalakrishan Third Floor,
Nr. Bedekar Hospital,
Ram Murthi Cross Road,
Thane – 400 602

.....Respondent

MEMBERS PRESENT:

1. CA. Amarjit Chopra, Government Nominee & Presiding Officer
2. CA. Rajendra Kumar P, Member
3. CA. Pramod Kumar Boob, Member

DATE OF MEETING : 21.08.2020 (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. Hrushikesh Vinayak Deodhar (M.No.125625)** (hereinafter referred to as “the Respondent”) was **GUILTY** of professional misconduct falling within the meaning of Items (5), (6) and (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.



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2. The Committee noted that the Respondent was present before it through video conferencing mode from his place. On being asked about his submissions, if any, on the findings of the Committee, he stated that he has already submitted his written statement in response to the findings of the Committee. He further stated that his actions were in the interest of the Company & its workers and he never had any ill-intensions to cheat or to do anything wrong. However, he was questioned by the Committee on this aspect as while issuing the net worth certificate, he was supposed to act for the larger interest of all the stakeholders rather than being restricted to look after the narrower interest of Company & its workers only. To this he replied that the real net worth of the company was far higher as the Company had issued the share at twenty rupee premium to the promoters & this way, he tried justifying the validity of the Net-Worth Certificate issued by him. Finally, the Respondent expressed that he respects the findings of the Committee and requested to take a compassionate stand in his case.

3. The Committee while looking into the matter and the conduct of the Respondent is of the opinion that there was no merit in the arguments presented by the Respondent and he was grossly negligent while issuing the Net-Worth Certificate. The Committee noted that the Respondent failed to provide any reasonable justification with regards to allotment of net worth certificate and cash and cash equivalents. Hence, looking into the gravity of the charges, the Committee was of the view that the Respondent was grossly negligent in the conduct of his professional duties. Accordingly, it was decided by the Committee that ends of justice could be met if reasonable punishment be given to him.

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. Hrushikesh Vinayak Deodhar (M.No.125625) be removed from the register of members for a period of 01 (One) Year along with the fine of Rs.50,000/- (Rupees Fifty



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Thousands Only) to be payable by him within a period of 30 days from the date of receipt of this Order.

sd/-

(CA. AMARJIT CHOPRA)

GOVERNMENT NOMINEE & PRESIDING OFFICER

sd/-

(CA. RAJENDRA KUMAR P)

MEMBER

(approved & confirmed through email)

(CA. PRAMOD KUMAR BOOB)

MEMBER

Certified to be true copy

Jyotika

Jyotika Grover
Assistant Secretary,
Disciplinary Directorate

The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahrda, Delhi-110032

CONFIDENTIAL

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

Ref. No. PR-78/14-DD/140/14-DC/712/17

In the matter of:

Shri Hasmukh B. Barot,
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Thane – 400 602

.....Respondent

MEMBERS PRESENT:

CA. ATUL KUMAR GUPTA, PRESIDING OFFICER,
CA. AMARJIT CHOPRA, GOVT. NOMINEE
CA. RAJENDRA KUMAR P, MEMBER,
CA. CHANDRASHEKHAR VASANT CHITALE, MEMBER

DATE OF FINAL HEARING : 9th May, 2019

PLACE OF FINAL HEARING : ICAI Tower, Bandra Kurla Complex, Mumbai

PARTIES PRESENT:

Respondent : CA. Hrushikesh Vinayak Deodhar
Counsel for the Respondent : Shri S.G. Gokhale, Advocate



Findings of the Committee

1. On the day of hearing held on 9th May, 2019, the Committee noted that the Complainant was not present. The Respondent along with his Counsel was present. The Respondent was put on oath. On being enquired from the Respondent as to whether he is aware of the charges levelled against him, the Respondent replied positively and pleaded not guilty. Thereafter, the Counsel for the Respondent made submissions on the charges. The Committee posed questions to the Respondent. After hearing the final submissions of the Respondent, the Committee directed the Respondent to submit certain documents. With this, the hearing in the matter was concluded.
2. The Committee noted that in the prima facie opinion, the Respondent was held guilty on five charges. After hearing the submissions made by the Respondent and perusing the facts of the matter before it, the Committee proceeds to record the findings as under:-
3. In respect of the first charge, it is noted that the Respondent certified financial statements of M/s XLO Machine Tools Limited (hereinafter referred to as the "Company") wherein shares have been allotted without receipt of money into the bank account of the Company on the date of allotment. In his defence, the Respondent stated that on the date of the signing of the audit report there were cheques in hand and that they were yet to be deposited. The Respondent relied on the resolution passed at the Board meeting of the Company pursuant to which share were allotted. It is noted that the Respondent issued a certificate dated December 21, 2013 wherein Share Capital and Share Application Money was taken for the purposes of calculating the net worth. The Committee was surprised to note that the Respondent has signed the financial statements and also issued a net worth certificate when actually money has not been credited to the bank account of the Company. The Committee observed that the amounts were credited into the ICICI bank account of the Company on January 9, 2014 while the balance sheet as at November 30, 2013 was signed by the Respondent on December 17, 2013 and the net worth certificate as at November 30, 2013 was issued by the Respondent on December 21, 2013. Hence, it was clear that the amount of Rs.2.20 crores was received only after the date of signing of the said statements and certificate by the Respondent.



3.1 It is noted that the Respondent has not brought on record any evidence to prove his case that cheques were in hand on the date of his attestation. He has also not mentioned this fact in the statements and certificate attested by him. The Committee noted that the Respondent certified that "*the company is no more a SICK company as per provision of sick industrial company in terms ofof Sick Industrial Companies (Special Provisions) Act 1985*, when the actual position could have been different. The Committee observed that the whole statement was falsified merely to show that the Company had positive net worth when actually it was not the case and the amount of share capital and share premium was misstated in the financial statement. Hence, the Committee is of the view that Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (6) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

4. The Committee noted that second charge was related to the balance sheet and profit and loss account of the Company for the period ended November 30, 2013 wherein cash and cash equivalent were stated at Rs.4,28,14,756/- whereas the bank balance in ICICI Bank Limited as on December 1, 2013 is Rs.6,18,655.06/-. The Respondent as auditor failed to point out that the cash and cash equivalents was overstated. In respect of this charge, the Committee noted that the Respondent has not brought on record any evidence to prove that the said figure certified by him was correct. The Committee also records the careless approach of the Respondent in not verifying the bank statements. The Respondent stated that that there were cheques in hand. Even though it is assumed that they were cheques in hand, in that case also, cheque in hand was required to show separately under cash and cash equivalents. Hence, the Committee is of the view that the Respondent is guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

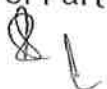
5. The Committee noted that the third charge relates to non- reporting of gratuity component in the financial statement. The Committee noted that the Respondent in clause (e) of his audit report dated April 30, 2014 reported the following:



"Provision for liability in respect of unencashed privileged leave is made on cash basis contrary to the mandatory Accounting Standard prescribed by the Institute of Chartered Accountants of India. (Refer Note No. U (A) (9) contained in Notes to the Accounts)."

5.1 The Committee noted that the Respondent has only reported about "unencashed privileged leave" and remained silent on non-provision of gratuity as required under Accounting Standard-15. The Respondent submitted that while qualifying his report he has mentioned the same and that unencashed privileged leave is to be construed as gratuity. The Committee was not satisfied with argument of the Respondent. It is noted that in note no. U (A) (9), it was mentioned that the Company has not worked out the present value of the obligation as required under AS-15. Further, it is mentioned in note no.9(b) under the disclosure in accordance with revised AS-15 on "Employees Benefit" that the requirement of the standard has not been adopted. Hence, in view of that fact that requirements of standard have not been followed the Respondent must have qualified the matter of non-provisioning of the present value of the gratuity in his main audit report. Since the Respondent failed to qualify the non-compliance of the requirement of AS-15, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

6. In respect of next charge, it is noted that though the Respondent has expressed qualification with regard to non-adjustment of doubtful debts of Rs.67.62 lakh in the financial statement for the financial year ending on 30.11.2003 yet in spite of being duly aware of the same, he did not make any adjustment for the doubtful debts while calculating net worth of the Company. The Committee is of the view that as per certificate dated 21.12.2013, the net worth of the company was only Rs.32.95 lakh whereas the amount of non-adjusted doubtful debts was Rs.67.62 lakh. Hence, if the amount of doubtful debts were adjusted from the net worth certificate, the net worth of the Company would have turned into negative. Therefore, the Committee is of the view that the Respondent who was also statutory auditor while certifying the said certificate should have adjusted the same to determine true net worth of the Company. Thus, the Respondent is guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



7. The Committee noted that the fourth charge was that compensation paid to Kanakia Spaces Pvt. Ltd for agreeing not to press their right of first refusal has been incorrectly shown as "Capital Work in Progress" instead of writing it off as an extraordinary item of expenditure in Profit & Loss Account in the financials of the period on 31st January, 2014. The Respondent drew the attention of the Committee to note no.4 of Others Notes to the financial statement wherein clarification in respect of the amount given to Kanakia Spaces Pvt. Ltd was given. In view of the submissions of the Respondent, the Committee is of the view that since the payment made was necessary for developing company's land accordingly, it decided to hold the Respondent Not Guilty with respect to this charge.

Conclusion

8. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning Clauses (5), (6) & (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



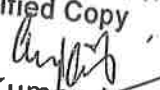

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

- Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASHEKHAR VASANT CHITALE)
MEMBER

DATE : 10-02-2020
PLACE : New 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