



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

[PRP-184/14/DD/217/14/DC/778/18]

**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-184/14/DD/217/14/DC/778/18]

**Shri Uday Godbole, Director,  
M/s. Advent Business Credit Development  
Company Private Limited  
Indo German Technology Park,  
Survey No. 297, 298, 299, at & Post Village,  
Urawade, Tal. Mulshi,  
Distt. Pune - 412 115.**

**..... Complainant**

**Versus**

**CA. Shamit Tridash Majmudar (M. No. 010595)  
M/s Shamait Majumdar Associates, 206, Janki Centre,  
Off. Veera Desai Road,  
Andheri (West),  
Mumbai- 400 053.**

**.....Respondent**

**MEMBERS PRESENT:**

- 1. CA. Amarjit Chopra, Government Nominee**
- 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 07.01.2020 the Disciplinary Committee was inter-alia of the opinion that **CA. Shamit Majumdar**  
CA. Shamit Tridash Majmudar (M. No. 010595)



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(M.No. 010595) (hereinafter referred to as "the Respondent") was **GUILTY** of professional misconduct falling within the meaning of Item (4) of Part II of Second Schedule to the Chartered Accountant Act, 1949.

2. The Committee noted that the Respondent was not present before it and no response was received from his side despite notice being issued to him which was also send vide email dated 13<sup>th</sup> August 2020 intimating him for the fixation of date of meeting of the Committee in which his case in question was supposed to be taken up for award of punishment to him. Earlier also, this matter was fixed on 07<sup>th</sup> August 2020, where the Respondent vide his email dated 06<sup>th</sup> August 2020 had requested for adjournment of the matter on account of his inability to move during restrictions in Mumbai amid Covid-19 lockdown situation & he being a senior Citizen aged about 76 years. It was noted by the Committee that a facility to appear by the mode of video conferencing by the Respondent through his place of choice including his residence was given, yet, neither did he availed of the same nor did he penned down anything to the office in relation with his willingness or otherwise to appear on the date of hearing. Accordingly, the Committee in his absence and considering the facts, law, and papers on record decided to conclude the hearing.

2. The Committee while looking into the matter and the conduct of the Respondent was of the opinion that Respondent, at any point of time during the hearing did not choose to appear before the Committee and his non-cooperative behaviour in the proceedings of the Committee indicates that he had nothing to add in his defence in respect of findings of the Disciplinary Committee and is accepting the findings of the Committee.

3. The Committee noted that the Respondent was not only the Director in certain Companies but also acted as the auditor in some of these Companies. In addition to this that



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the Respondent transferred the money related to the Company in his personal account. By doing so, the Respondent had committed a serious offense of defalcation/embezzlement of money. At the same time, the Respondent also never appeared before the Committee. Accordingly, the Committee decided that ends of justice could be met if reasonable punishment is 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. Shamit Tridash Majmudar (M. No. 010595) be removed from the register of members for a period of 03 (Three) Years along with the fine of Rs.1,00,000/- (Rupees One lakh only) to be deposited within 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, Shahdra, Delhi-110032

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-184/14/DD/217/14/DC/778/18]

In the matter of:

**Shri Uday Godbole, Director,  
M/s. Advent Business Credit Development  
Company Private Limited  
Indo German Technology Park,  
Survey No. 297, 298, 299, at & Post Village,  
Urawade , Tal. Mulshi,  
Distt. Pune - 412 115.**

**..... Complainant**

**Versus**

**CA. Shamit Majumdar .....(M. No. 10595)  
M/s Shamait Majumdar Associates,  
206, Janki Centre,  
Off. Veera Desai Road,  
Andheri (West),  
Mumbai-400 053.**

**.....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 : 20.07.2019**

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





PARTIES PRESENT :

Complainant : Shri Uday Godbole

Counsel for the Complainant : Shri Dinesh Puran Dare

Respondent : Not Present

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 (5), (6), (7) and (8) of Part I of Second Schedule and is guilty under Clause (4) of Part II of Second Schedule to the Chartered Accountant Act 1949.

The aforesaid Clause (5) of Part I of Second Schedule states 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;*

Clause (6) of Part I of second schedule states as under:-

*(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;*

Clause (7) of Part I of second schedule states as under:-

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

Clause (8) of Part I of second schedule states as under:-

*(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;*

Clause (4) of Part II of second schedule states as under:-

*(4) defalcates or embezzles moneys received in his professional capacity."*





2. The case was related to a complaint wherein, the complainant alleged that the respondent was not only Director but also the auditor of certain companies. The complainant further alleged that the respondent failed to take decision without bias/self-interest during the course of his professional engagement which caused loss to the Company.

**Brief facts of the Proceedings:**

3. On the day of hearing, the Committee noted that Complainant along with his Counsel was present; on other side, the Respondent did not appear before the committee nor did he seek adjournment in the matter whereas on the last hearing which was scheduled at 29<sup>th</sup> May 2019 there was an adjournment request from the Respondent. As per the Principle of natural justice one adjournment was already granted by the Committee. Proviso to Rule 18(7) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules,2007 states as follows :-

*"Provided that if the respondent does not appear for the first hearing even after one adjournment, the reading out of charge or charges along with summary of prima facie opinion shall be made in his absence and the case proceeded with in accordance with the provisions of this Chapter."*

4. After considering the above facts and provisions under the Rules, the Committee decided to proceed. The Complainant was put on oath. In the absence of the Respondent, the Committee asked the Complainant to open the Charges before them. The Complainant briefed the charges before the Committee. After considering all papers available on record and oral submissions of the Complainant, the Committee decided the matter.

**Findings of the Committee**

5. The Committee reviewed the first allegation wherein the Respondent is Director/the auditor of various group companies and based on the table

8

presented on the Para 7.2 of prima-facie opinion could reach to a conclusion that the respondent is not only the Director in the company named Abicor Binzel Productions India Pvt Ltd. since incorporation till 29th March,2014 but also remained the auditor from 1st April,1999 to 31st March 2000 which is the gross violation of the Code of Ethics pronounced by the ICAI. It is noted by the Committee that this particular violation falls under the Clause 11 of Part I of the First Schedule which states as under.

*“(11) engages in any business or occupation other than the profession of chartered accountant unless permitted by the Council so to engage:*

*Provided that nothing contained herein shall disentitle a chartered accountant from being a director of a company (not being a managing director or a whole time director) unless he or any of his partners is interested in such company as an auditor;”*

6. In view of the above, the Committee also noted the complaint filed by the complainant and the Prima Facie Opinion prepared by the Director Discipline and found that none of them has invoked the Clause 11 of the Part I Schedule I of Chartered Accountants Act; However, at this stage the Committee cannot redefine the allegation and hold the Respondent guilty. Accordingly, the committee decided not to agree with the views of Director Discipline for this particular allegation.
7. The Second allegation is for the biased/self-interest working of the respondent during the course of his professional engagement for the various group companies the Committee found that there are the various instances produced by the complainant. It also found that the respondent was not only involved in the purchase of land for which legal permission was not obtained but also there were the instances when the respondent transferred the money related to the company in his personal account for more than three years and could return only a portion of the same after the regular follow-up and persuasion by the management. As specific instance was also being reported that the two cheques of Rs. 10 lakhs and Rs.55 lakhs were issued by the

8

Respondent on behalf of the Company to the Company called Vijayta Films Pvt. Ltd. which has no relationships with the Complainant Company.

8. The Committee also noted that in spite of regular notices to the Respondent. The Respondent never appeared before this Bench and continues to avoid any submissions. Accordingly, the Committee found Respondent guilty on this charge.

### Conclusion

- 9.1. In view of the above the Committee is of the opinion that there was mere allegation under Clause (5), (6), (7) and (8) of Part I of Second Schedule to the Chartered Accountant Act 1949 for which no substantive evidence were produced before the Committee, hence, benefit of doubt may be extended to the Respondent. Accordingly, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** in terms of Clause (5), (6), (7) and (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949.
- 9.2. In terms of above mentioned paragraphs for defalcation or embezzlement of money in the professional capacity, the instances proved the guilt of the Respondent hence the Committee holds the Respondent **GUILTY** under Clause (4) of Part II of Second Schedule to the 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**

**DATE: 7-1-2020**  
**PLACE: Mumbai**

  
Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
ICAI Bhawan, I.P. Marg, New Delhi-110 002