



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

[PR/342/14-DD/360/14-DC/901/18]

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.

[PR/342/14-DD/360/14-DC/901/18]

Shri Sharad Kisanrao Koshire,
Partner,
Shree Bhagwati Construction,
Sancheti Towers,
Opp Circle Talkies,
Ashok Stambh,
Nashik – 422001

.....Complainant

Versus

C.A Madhukar Tile (M.No. 42963)
C/O. M.R Tile & Co.
Off. No. 2, 1st Floor
Vaishampayan Sankul,
Opp Hotel Panchavati,
Vakilwadi,
Nashik - 422001.

..... 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: 22nd September, 2020 (through Video Conferencing)



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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. Madhukar Tile (M.No. 42963)** was **GUILTY** of professional misconduct falling within the meaning of Item (7) and (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949.
2. The Respondent was present before the Committee through video conferencing mode. On being asked about his submissions, he submitted that he has already submitted his written statement in response to the findings of the Committee and further submitted that he had certified the turnover and filed the original return. He further added that he had submitted all paper justifying the turnover showing the original return. He added that he had not filed the revised return and due to this he was unable to comment on revised return. Thereafter, the Respondent pleaded for justice and to take lenient view in his case.
3. The Committee while looking into the matter and the conduct of the Respondent, was of the opinion that the Respondent as an auditor remained fail to point out any irregularity with regards to huge turnover with corresponding very less bank transactions. The Committee while considering the written submission on record was of the view that Respondent also remained fail to substantiate the alleged inflated value of sales. The Committee opined that the Respondent was grossly negligent while discharging his professional work. It also opined that the Respondent should have been more prudent while certifying the turnover as it got noticed by the income tax authorities otherwise it would have caused loss to government exchequer. Therefore, it concluded that ends of justice could be met if reasonable punishment be given to him.



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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. Madhukar Tile (M.No. 42963) be removed from the register of members for a period of 01 (One) Year along with the fine of Rs.20,000/- (Rupees Twenty Thousands only), to be payable within 30 days from the date of receipt of the Order.

sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

(approved and confirmed through e-mail)

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

(approved and confirmed through e-mail)

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

(approved and confirmed through e-mail)

(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-342/2014/DD/360/14/DC/901/2018]

In the matter of:

**Shri Sharad Kisanrao Koshire,
Partner,
Shree Bhagwati Construction,
Sancheti Towers,
Opp Circle Talkies,
Ashok Stambh,
Nashik – 422001**

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Opp Hotel Panchavati,
Vakilwadi,
Nashik - 422001.**

..... Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee
Shri Rajeev Kher, IAS (Retd.), Govt. Nominee
CA. Chandrasekhar Vasant Chitale, Member**



DATE OF FINAL HEARING : 10.08.2019

PLACE OF FINAL HEARING : ICAI Tower, Mumbai

PARTIES PRESENT:

Complainant: Not Present

Respondent: CA. Madhukar Tile

Counsel for Respondent : Shri S.G. Gokhale, Advocate

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 held guilty under Clause (7) and Clause (8) of Part I and Clause (1) Part II of Second Schedule to the Chartered Accountants Act, 1949. The above said 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;"

Whereas Clause (8) of Part I of Second Schedule of Chartered Accountant Act 1949 which states that:-

"(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;"

And Clause (1) of Part II of Second Schedule of Chartered Accountant Act 1949 which states that:-

"(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;"

2. In this case allegation against the Respondent, The case is primarily based on the complaint filed by the complainant who is the assessee (auditee) wherein the Respondent was the tax auditor of the complainant's firm for the assessment year 2007-08, 2008-09, 2009-10 and also filed the income tax returns with the Income Tax department. The grievance of the Complainant is that the Respondent has inflated the value of sales of his firm M/s. Shri Bhagwati Construction. For the three assessment years 2007-08, 2008-09, 2009-10 the turnover certified by the Respondent is 84,60,671, 6,55,77,361 and 2,27,26,911/- respectively whereas in the revised amounts

submitted by the auditee to the Income Tax Department which were affirmed in the order passed by the adjudicating authority including the Commissioner of Income Tax (Appeals). The revised turnovers which got assessed for the three different assessment years are Rs.46,05,690, 1,56,30,320 and 1,90,76,845/-.

Brief facts of the Proceedings:

3. On the day of hearing, the Committee noted that Complainant was not present. The Respondent appeared before the Committee along with Counsel. 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 negative. Thereafter, the Committee sought whether he wishes to proceed with his defence. The Respondent was already on oath as matter was partly heard on 25th June, 2019. After considering all papers available on record and pleadings, the Committee proceeded with the matter.

Findings of the Committee

4. On the matter stated above, the Committee enquired from the Respondent about the above allegation that from which available source of the information this alleged turnover has been certified in the different assessment years by him. The Committee also advised the Respondent to submit the copy of the VAT assessment order, the detail of TDS deducted in WCT contracts, the detailed calculations of turnover and the bank statements of the auditee for the alleged period. The Committee also reviewed the assessment order including the Order in Appeal and also called CA Sanjeev Shankarlal Mutha as witness who appeared on behalf of the complainant before the Adjudicating/Appellate Authority for the assessment of the case.
5. The Committee on perusal of the bank statement and other related documents including the VAT assessment order did not find any justification for value of turnover which was certified by the Respondent. There were transactions in the bank for less than even the turnover reported in the revised assessment orders as claimed by the Complainant.
6. The Committee noted that an opportunity was granted to the Respondent wherein he can substantiate his certificate with any other bank account being operated by the Complainant and in response to that Respondent submitted the details of two banks i.e.

Dena Bank and Ganesh Bank. Both these banks are either the saving bank account or hardly having any transaction/balance. The Respondent tried to impress in such a manner that he can substantiate such as a huge turnover but the Respondent further reiterated that the assessee was having the cash transaction which were not routed through the proper banking channels for which there was no substantiate evidence available with him. The Committee noted that the even Tax Audit Report prepared by the Respondent did not point out any such irregularity. The Committee also offered the opportunity to share the books of accounts based on which such a huge turnover was prepared by him. The Respondent submitted that he is not carrying any such record and working papers for the said assessment years and hence, fails to produce the same before the Committee.

Conclusion

7. In view of the above findings, the Committee is of the view that inspite of numerous opportunities which have been offered to the Respondent to substantiate or produce any evidence to show the calculation that how the alleged inflated value of sales have been arrived at, the Respondent could not produce anything on merit. The Committee could not find any material to hold the Respondent guilty in the Clause (1) Part II of Second Schedule to the Chartered Accountant Act, 1949. Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** under Clause (7) and Clause (8) 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/-
(SHRI. RAJEEV KHER, IAS Retd.)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR V. CHITALE)
MEMBER

DATE: 10-02-2020
PLACE: New Delhi


CA. Amit Threja
Deputy Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India