



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

DISCIPLINARY COMMITTEE [BENCH-I (2020-2021)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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.

In the matter of:

CA. Aditya Namjoshi, Ujjain (M.No.074500),
[PPR/P/37/C/13/DD/80/INF/14-DC/532/2017]

MEMBERS PRESENT:

CA. Nihar Niranjan Jambusaria, Presiding Officer
Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee)
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee)
CA. G. Sekar, Member
CA. Pramod Jain, Member

1. That vide report dated 11th January, 2019, the Disciplinary Committee has inter-alia held **CA. Aditya Namjoshi (M.No.074500)** (hereinafter referred to as the "Respondent") **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
2. That pursuant to the said report, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication dated 3rd March, 2020 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 17th March, 2020 at New Delhi.
3. The Committee noted that on 17th March, 2020, the Respondent was present. The Respondent vide letter dated 9th March, 2020 also made his written representations on the said report.
4. The Respondent made his verbal submissions before the Disciplinary Committee. The Committee observed that the Respondent reiterated his submissions as made before the Disciplinary Committee at the time of hearing. A brief of the verbal and written representations made by the Respondent is as under:-



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i) He has never signed the Balance Sheet and Profit & Loss Account for the financial year 2006-07 and 2007-08. However, the Turnover Certificate was signed by him and a copy of the provisional balance sheet for 31st March, 2010 was only attested as "true copy" of the original only to be attached with the tender for filing the same to the tendering authority.

ii) He must have checked the tax audit reports of Mr. Anurag Chhajlani before the issue of turnover certificate. He was under impression that the firm is under audit since last many years.

iii) He had no ill intention behind the issuing the Certificate.

5. The Committee has considered the reasoning (s) as contained in paras no.4 to 7 and 8 of the Disciplinary Committee report holding the Respondent Guilty of professional misconduct vis-à-vis written as well as oral representations of the Respondent on the findings of the Disciplinary Committee.

6. Keeping in view the facts and circumstances of the case, material on record and representations of the Respondent made before it, the Committee is of the view that the professional misconduct on the part of the Respondent is established and however, keeping in view the circumstances as brought on record by the Respondent, the said misconduct does not qualify for a severe sentence. Accordingly, the Committee orders that **the Respondent, CA. Aditya Namjoshi (M.No.074500) be reprimanded and imposed a fine of Rs.30,000/- (Rupee Thirty Thousand only) upon the Respondent i.e. CA. Aditya Namjoshi (M.No.074500) to be paid within 30 days of receipt of this order.**

sd/-

(CA. NIHAR NIRANJAN JAMBUSARIA)
PRESIDING OFFICER

(approved and confirmed through e-mail)

(SHRI JUGAL KISHORE MOHAPATRA)
GOVERNMENT NOMINEE

sd/-

(MS. RASHMI VERMA)
GOVERNMENT NOMINEE

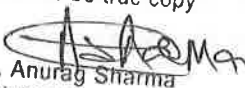
(approved and signed)

(CA. G. SEKAR)
MEMBER

sd/-

(CA. PRAMOD JAIN)
MEMBER

Certified to be true copy


Anurag Sharma

Assistant Secretary,
Disciplinary Directorate

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

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
INDRAPRASTHA MARG, NEW DELHI – 110 002
DISCIPLINARY COMMITTEE [BENCH-III (2018-19)]

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. : PPR/P/37/C/13/DD/80/INF/14-DC/532/2017

In the matter of :

CA. Aditya Namjoshi (M.No.074500)
23, Bhoj Marg,
Freeganj,
Ujjain-45600

..... Respondent

Members Present:

CA. Naveen N.D Gupta, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Shyam Lal Agarwal, Member
CA. Sanjay Kumar Agarwal, Member

Date of Final Hearing : 4th December , 2018

Place of Final Hearing : New Delhi

Party Present

Respondent - CA. Aditya Namjoshi

Allegations of the Informant:

1. A letter No. DDIT (Inv.) Ujjain/Ind/Complaint against/CA/13-14/2901 dated 29th October, 2013 (B-3) was received from Shri Vijendra Kumar, DDIT (Inv.) Ujjain (Camp at Indore)(hereinafter referred to as the "Informant") containing allegations against CA. Aditya Namjoshi (M. No. 074500), Ujjain (hereinafter referred to as the "Respondent"). As per the allegation letter, a



concern M/s. Galaxy Computers & Communications, Ujjain (Proprietor Shri Anurag Chhajlani) had applied for various tenders invited by MP Govt. Department during Financial Year 2006-07 to Financial Year 2012-13 and the documents produced by the above concern such as statement of accounts, turnover certificates, etc. before the tendering authorities were fabricated in the sense that the turnover and the income shown in the accounts and turnover certificate before tendering authorities were considerably higher than shown in the regular books of accounts and return.

It was stated that a detailed enquiry was conducted by the Informant Department and it was found that the Respondent had certified the documents such as Balance Sheet, Profit & Loss account and issued turnover certificate for financial years 2006-07 to 2009-10, which were produced by the concern before the tendering authorities. It was alleged that these documents were fabricated as it reflected higher turnover and income to procure the contract.

Proceedings:

2. At the time of hearing on 22nd May 2018, the Committee noted that the Respondent was present before the Committee. Since it was the first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or these could be taken as read. The Respondent stated before the Committee that he was aware of the allegations raised against him and the same may be taken as read. On being asked, as to whether he pleaded guilty, he replied that he did not plead guilty and would opt to defend his case. Before initiation of the proceeding, the Respondent submitted copies of the written submissions in the matter. Thereafter, the Respondent made his submission in the matter before the Committee. The Respondent was examined by the Committee on the submissions made by him.

3. At the time of last hearing on 4th December 2018, the Committee noted that the Respondent was present in person to appear before the Committee. The Committee informed the Respondent that since the composition of the Committee had undergone a change, therefore an option of de-novo hearing in the matter was available to him. The Respondent stated that since he had submitted his oral as well as written defense when matter was heard last time, the case may be proceeded from the stage where it was left. The Committee agreed to the same and thereafter, based on the documents available on record, the oral and written submissions made by the Respondent, the Committee concluded the hearing in the matter.



Findings of the Committee:

4. The allegation against the Respondent has that he certified the documents produced by M/s Galaxy Computers & Communications, Ujjain such as Balance Sheet, Profit & Loss account and issued turnover certificate for financial years 2006-07 to 2009-10 before the tendering authorities which were fabricated as it reflected higher turnover to procure contract.
5. The Respondent in this regard submitted that he had not certified all the papers such as Balance Sheet, Profit & Loss Account and only signed the turnover certificate and one Balance Sheet for the year ending on 31st March, 2010. He further submitted that he had conducted audit of firms owned by Mr. Anurag Chhajlani and filed his income tax returns with the help of staff for many years and Mr. Anurag Chhajlani came to his office for issuance of certificate on 27.05.2010 in hurry as there was a deadline to submit the tender and due to many years' relationship and past working with him, he trusted him. His submission was that due to pre-engagements with other clients, his staff duly verified the turnover stated in the certificate and assured him the correctness of the same and on the basis of such cross verification, he signed the certificate. Thus, as per the Respondent there was no lack of due diligence on his part for signing the certificate and his staff had relied on the documents produced by Mr. Anurag Chhajlani. The Respondent pleaded that he was only a victim in this case as Mr. Chhajlani got the fabricated documents signed from him.
6. In this regard, the Committee noted that Mr. Anurag Chhajlani, the proprietor, in his statement to DDIT (Inv.), Ujjain (A-21) while accepting that the documents submitted to various departments in response to tenders were fabricated to get the contract in his favour during above periods, had also submitted that the Respondent had prepared the Trading, Profit & loss account, Balance Sheet, Audit Report etc of M/s Galaxy Computer & Communications for the financial years 2006-07 to 2012-13. It also noted that Mr. Anurag Chhajlani further in his statement had deposed on Oath that the Respondent in hurry signed turnover certificate for tender (A-24, Reply to Q-10). The Committee further noted that the Respondent in his statement to DDIT (Inv.), Ujjain had stated that in financial year 2006-07 and 2007-08 the sales were less than 40 lakhs and hence Section 44AB of Income tax act, 1961 for tax audit was not applicable (A-29, Reply to Q-9). But it was clearly evident from the Trading Account produced

on record for Financial Years 2006-07 and 2007-08, on the basis of which Turnover Certificate (A-37) was certified that turnover for stated periods exceeded Rs. 40 lakhs (A-40, A-45). Accordingly, when the Respondent was issuing turnover certificate with turnover exceeding 40 lakhs, he ought to be aware that tax audit was necessary and ought to have checked the tax audit report of the firm before issuing turnover certificate. The Respondent himself had accepted in his statement that he had not checked tax audit report and books of accounts (A-30).

7. The Committee also noted that the Respondent had submitted that he had certified and issued the turnover certificate in haste and without verification based on the records produced by Mr. Anurag Chhajlani and it was only later that he realized that these documents were fake. The Committee further noted that the Respondent had also made a statement before the investigating authorities that during 2006-07 and 2007-08 tax audit was not conducted as the turnover of the concern was below the prescribed limit of Rs.40 Lakhs (A-29) whereas on perusal of the turnover certificate submitted by Respondent, it was noted that he had certified for respective years turnovers for respective financial years exceeding Rs. 40 lakhs (A-40, A-45, C-7 and C-9). Thus there was an apparent contradiction in the statement made by the Respondent vis-a-vis the facts certified by him in the turnover certificate. The Committee also noted that since turnover certificate was a written confirmation of accuracy of the facts stated therein, the Respondent had not exercised due diligence as was expected from a professional while carrying out the professional duties associated with issuing the Certificate.

Conclusion

8. Thus in conclusion, in the opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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V

Sd/-
(CA Naveen N.D Gupta)
Presiding Officer

Sd/-
(Smt. Anita Kapur)
Member (Govt. Nominee)

Sd/-
(CA. Shyam Lal Agarwal)
Member

Sd/-
(CA. Sanjay Kumar Agarwal)
Member

Date: 11th January, 2019

Place: New Delhi

CA. Aditya Manjoshi (M.No.074500)

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