



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 :**

**Shri Ashutosh Gautam, New Delhi**

**-Vs-**

**CA. Puneet Kumar Singh, (M. No. 511454), Varanasi**  
**[PR-69/13/DD/92/2013/DC/515/2017]**

**MEMBERS PRESENT (Through Video Conferencing):**

- 1. CA. Nihar Niranjana Jambusaria, Presiding Officer**
- 2. Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee)**
- 3. Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee)**
- 4. CA. G. Sekar, Member**
- 5. CA. Pramod Jain, Member**

1. That vide findings dated 11.01.2019 under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was inter-alia of the opinion that **CA. Puneet Kumar Singh, (M. No. 511454)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clauses (7) and (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949.

2. That pursuant to the said findings, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communications dated 3<sup>rd</sup> March, 2020 and 21<sup>st</sup> August, 2020 were addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 17<sup>th</sup> March, 2020 and 2<sup>nd</sup> September, 2020 respectively.

3. The Committee noted that on 2<sup>nd</sup> September, 2020, the Respondent was present through Video Conferencing mode and made his oral representation on the said findings.



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The Committee also noted that the Respondent vide email dated 30<sup>th</sup> August, 2020 submitted his written representation dated 28<sup>th</sup> August, 2020 on the said findings.

4. The Committee observed that the written and verbal representations as made by the Respondent before the Disciplinary Committee can be summarized as under:-

- i) The net worth as per CA certificates compiled by him was generally based on a revaluation of selected property assets appearing in the relevant audited balance sheet of the Company. The valuation reports were duly certified by a registered valuer and attached to the "Statement of Cash Accrual and Networth" in all cases.
- ii) First certificate dated 12.11.2011 for the financial year 2010-11 of Rs.16.15 Cr is based on audited Balance Sheet for the relevant financial year wherein four properties appearing in the Balance Sheet were considered at revalued figure.
- iii) The second certificate dated 23.08.2012 for the financial year 2010-11 of Rs. 4.92 Cr is based on Audited Balance Sheet for relevant financial year, dated 28.07.2011 prepared by the Statutory Auditor. While preparing this certificate the methodology is contained in the certificate itself and the same was prepared in pursuance of clarification required by National Highways Authority of India.
- iv) Furthermore, there was no occasion to withdraw the first certificate while issuing the second certificate for the same financial year and also there was no occasion to give a disclaimer in the second certificate to the effect that the second certificate uperseded the earlier certificate as both certificates were issued for different purposes.
- v) The first certificate dated 12.11.2011 for the financial year 2011-12 of Rs. 16.15 Cr is based on the Provisional Balance Sheet as at 31.03.2012 dated 12.11.2011. He has not given a disclaimer that the certificate is based on Provisional Balance Sheet which was attached with the certificate itself and it was self explanatory that while giving the net worth certificate for the financial year 2011-2012 on 12.11.2011 when the financial year has not ended, figures of provisional balance sheet itself would have been considered.
- vi) The second certificate dated 13.04.2012 for the financial year 2011-12 of Rs. 18.60 Cr is based on the Balance Sheet for relevant financial year prepared by the management and later audited and accepted in totality by the Statutory Auditor vide audit report dated 28.07.2012 wherein only three properties appearing in the Balance Sheet were considered at revalued figures based on valuation report of registered valuers made available to the Respondent. That, in case of this certificate, the paid-up capital on the date of issuing certificate i.e.13.04.2012 was Rs.5.22 Cr which is the same as on 31.03.2012. That, the Committee's observation that paid-up capital as on 13.04.2012 is an incorrect observation and he has taken the paid-up capital as on 31.03.2012 itself as per requirement of Committee.



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vii) That, on the issue of following guidelines laid down in RFP while issuing certificates the Respondent hereby submits that at the time of issuing the certificates the Respondent was not made aware of the fact that the same were being submitted in bidding process of NHA Tenders in normal course of business.

5. The Committee has considered the reasoning as contained in findings dated 11<sup>th</sup> January, 1019 holding the Respondent Guilty of professional misconduct vis-à-vis written and verbal 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 written 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 submissions 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. Puneet Kumar Singh (M. No. 511454)**, be **reprimanded.**

sd/-

**(CA. NIHAR NIRANJAN JAMBUSARIA)**  
**PRESIDING OFFICER**

(approved and confirmed through e-mail)

**(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (RETD.))**  
**GOVERNMENT NOMINEE**

sd/-

**(MS. RASHMI VERMA, I.A.S. (RETD.))**  
**GOVERNMENT NOMINEE**

(approved and confirmed through e-mail)

**(CA. G. SEKAR)**  
**MEMBER**

sd/-

**(CA. PRAMOD JAIN)**  
**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

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

**INDRAPRASTHA MARG, NEW DELHI – 110 002**

**REPORT OF THE 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. : PR-69/2013/DD/92/2013/DC/515/17**

**In the matter of:**

**Shri. Ashutosh Gautam,  
General Manager (CO),  
National Highways Authority of India,  
G-5 & 6, Sector -10,  
Dwarka,  
New Delhi-110075.**

**.....Complainant**

**Versus**

**CA. Puneet Kumar Singh, (M. No. 511454)  
M/s. Puneet Kumar & Co.,  
B-1/11, Prashantpuri,  
DIG Colony,  
Varanasi,  
U.P. - 221002**

**.....Respondent**

**Members Present:**

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

**DATE OF HEARING: 4<sup>th</sup> December, 2018**

**PLACE OF HEARING : New Delhi**

**PARTIES PRESENT:**

**Representative of the Complainant: Sh. Anil Kumar Goyal, Manager, NHAI**

**Allegations raise by the Complainant:**

**1. Shri Ashutosh Gautam, General Manager (CO), National Highways Authority of India (NHAI), New Delhi** (hereinafter referred to as the “**Complainant**”) has filed complaint In Form ‘I’ dated 8<sup>th</sup> March, 2013 (C-1 to C-84) against **CA. Puneet Kumar Singh, (M. No. 511454), M/s. Puneet Kumar & Co., Varanasi** (hereinafter referred to as the “**Respondent**”). The Complainant in his Complaint has alleged as under:-

- 1.1 The Respondent has certified wrong net worth of M/s. U Toll Corporation Ltd. (hereinafter referred as the ‘**Company**’)
- 1.2 The Respondent has issued 4 certificates for Net Worth of the Company changing the Net Worth of the Company.

**Proceedings:**

2. At the time of hearing on 16<sup>th</sup> January 2018, the Committee noted the presence of the Respondent in person. However the Complainant was not present and since the notice sent to him was delivered, the Committee decided to proceed ahead in the matter ex-parte Complainant. The Respondent was put on oath. The Committee asked the Respondent as to whether he wished the allegations to be read out or the same may be taken as read. The Respondent stated that he was aware of the allegations and same be taken as read. The Committee, enquired from the Respondent whether he pleaded guilty to the charges, to which he pleaded non guilty and opted to present his defence through his authorized Counsel.

The Respondent made his submissions on the allegations raised in the instant case. The Committee examined him on the allegations. Thereafter he was asked to made his final submissions on the matter.

3. At the last hearing held on 4<sup>th</sup> December 2018, the Committee noted that the Respondent vide his letters dated 18<sup>th</sup> July 2018, 22<sup>nd</sup> October 2018, 9<sup>th</sup> November 2018 and 1<sup>st</sup> December 2018 had requested for adjournment on medical grounds and also informed the Committee that the Committee may decide the case considering his earlier submissions if the adjournment requests so made were not acceded to. The Committee also noted that although the Respondent had sought adjournment several times on medical grounds, but Rule 18(18) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 explicitly provides that adjournment in the matter shall not be granted more than once. Since sufficient opportunity had been granted

to the Respondent and the representative of the Complainant department was present, the Committee decided to proceed ahead in the matter. The representative of the Complainant made his submission in the matter and was thereafter examined by the Committee. Thereafter, based on the documents available on record, along with the oral and written submissions of the parties, the Committee concluded the hearing in the matter.

3. The Committee noted that the Respondent in the extant matter had submitted that in the normal course of business, for assessing financial capacity of the Company for multifarious activities, all of which were not necessarily known to the Respondent, he was frequently required to provide a CA certificate showing "Cash Accrual and Net Worth" of the Company. It was admitted that he had issued four certificates, out of which two pertained to financial year 2010-11 and the other two pertained to financial year 2011-12. A detailed chart for the four certificates is given below:

Sl.No	Date	Financial Year	Net Worth (in Rs.)	Basis / Methodology
1	12.11.2011	2010-11	16,15,49,093.00	Considering Revaluation of four properties by registered valuer and based on audited balance sheet
2	12.11.2011	2011-12	16,15,49,093.00	Based on provisional balance sheet since the financial year had not ended
3	13.04.2012	2011-12	18,60,15,192.54	Considering Revaluation of three properties by registered valuer and based on balance sheet prepared by management of assessee company and later audited and accepted by statutory auditor vide auditor report dated 29.07.2012
4	23.08.2012	2010-2011	4,92,68,489.54	Based on audited Balance Sheet dated 28.07.2011 in pursuance of clarification required by NHAI from the Company vide its letter No. NHAI/ 13013/ 547/ CO /10-11 competitive bidding dated 30.07.2012 and 16.08.2012.

4. The Respondent further submitted his explanation on each certificate issued by him individually which is given as under:

**a) Certificate dated 12.11.2011 showing net worth of Rs.16.15 crores**

That the Respondent has a practice of preparing and submitting the basis of computation of certificate along with the certificate itself to the respective client as was evident from the basic calculation (W-9) already submitted & it was the prerogative of the client Company to submit the same alongwith the certificate as and when required. Non submission of basis of computation of net worth by the client Company to NHAi cannot be adversely held against the Respondent and treated as a case of professional misconduct.

**b) Certificate dated 23.08.2012 showing net worth of rs.4.93 crores**

That the assessee had to submit the said certificate on specific request of the client company in response to query made to them by NHAi specifically mentioning the methodology for calculating net worth and therefore this certificate was issued as per different method and hence the same cannot be treated as professional misconduct by the Respondent and no adverse inference may be drawn on this account.

**c) Certificate dated 12.11.2011 showing net worth of rs.16.15 crores**

That the said certificate was issued, based on Provisional Balance Sheet which was prepared with diligence and due care, using accepted methodology It is pertinent to note that the certificate of net worth was given on 12.11.2011 for financial year 2011-12 when the financial year was still in progress and hence a certificate for the same could only be given based on projected or provisional figures. As copy of provisional Balance Sheet was attached with the certificate and submitted to the client Company. It was the prerogative of the client Company to provide the same to the Complainant. Hence this cannot be treated as a case of professional misconduct and no adverse inference may be drawn.

**d) Certificate dated 13.04.2012 showing net worth of rs.18.60 crores**

The net worth of Rs.18.60 crores is stated for the financial year 2011-2012. The same is based on Balance Sheet for relevant financial year prepared by the management and later audited and accepted in totality by the Statutory Auditor vide audit report dated 28.07.2012 wherein only three properties appearing in the Balance Sheet were considered at revalued figures based on valuation report of registered valuers made available. The fact that the Net Worth of Rs.18.60 crores was arrived after considering revalued figure of assets has been mentioned specifically in the certificate itself and there was no misrepresentation, malafide

intent or gross negligence in conduct of professional duties on the Respondent's part while issuing such certificate.

### Finding of the Committee

5. The Committee noted that it has been alleged against the Respondent that he had certified wrong net worth of the 'Company' and issued four different certificates for Net Worth of the Company pertaining to two financial years with different Net Worth of the Company in different certificates.

6. The Committee noted that the the Respondent did issue four certificates to the Company showing Net Worth of the Company for Financial Years 2010-2011 and 2011-2012. The Respondent issued two certificates for the same F.Y. 2010-2011 on two different dates. The first certificate issued by the Respondent was dated 12.11.2011 wherein the Net Worth of the Company for Financial Year 2010-11 was arrived at Rs.16,15,49,093/-(C-3) which as per the Respondent in his written statement, was based upon audited financial statements of the Company. The Committee also noted that he had issued another certificate for the same period i.e. financial year 2010-11 dated 23.08.2012 wherein the Net Worth of the Company was certified as per audited books of accounts at Rs. 4,92,68,489.54/- (C-81). Upon perusal of this certificate, it was noted that the Respondent had not considered the revaluation of property, which was considered by him while certifying the Net Worth in the earlier certificate dated 12.11.2011. The Committee was thus of the view that the Respondent had certified networth of the Company for the same time period at two significantly different values without mentioning in the certificates the basis/methodology adopted to determine the same. In the view of the Committee, such computation should have been shown on the face of the certificate. Further it is significant to note that the Respondent issued another net worth certificate of different value for the same financial year without withdrawing the first certificate and without giving a suitable disclaimer in the second certificate to the effect that the same superseded the earlier certificate given in this context. The Committee is thus of the view that the Respondent had been issuing certificate of Net Worth of the Company as and when required and had not bothered to qualify such certificates by



making appropriate disclosures or the basis on which such varying certificates were being issued.

7. The Committee also noted that the Respondent issued two different certificates for the F.Y. 2011-2012 also wherein different figures of net worth of the Company were certified by him. The Respondent had issued two certificates dated 12.11.2011 and 13.04.2012 to the Company certifying the Net Worth of the Company at Rs.16,15,49,093.00/- and Rs.18,60,15,192.54/- respectively for the same Financial Year 2011-2012(C-31 &C-41). In this respect, the Respondent in his written statement had submitted that certificate dated 12.11.2011 was based upon provisional Financial Statements of the Company and other one dated 13.04.2012 was based upon audited Financial Statements of the Company. But on perusal of the certificate dated 12.11.2011, it was observed that the Respondent had not given a disclaimer in the said Certificate to the effect that it was based on the provisional financial statements. Further, on perusal of Computation of the Certificate dated 13.04.2012(W-10), it was observed that the Respondent had taken paid up capital as on 13<sup>th</sup> April, 2012 of Rs.5,23,30,100/- which exceeded the paid-up share capital as on 31<sup>st</sup> March, 2012. The Committee viewed that if the Respondent was issuing Net Worth certificate as on 31<sup>st</sup> March, 2012, then he should have considered the paid up capital as on 31<sup>st</sup> March, 2012 only and not as on 13<sup>th</sup> April, 2012. It was noted by the Committee that during previous hearing, when the then Committee asked as to whether the Respondent had verified the same from records, he had replied that it was not based on RoC Form submitted for the same. Thus, in the opinion of the Committee, the Respondent failed to exercise due diligence while carrying out his professional duties.

8. The Committee was further of the view that non disclosure of material information viz. issuing Net worth Certificate without disclosing the fact that it was based on provisional balance sheet or computing networth based on wrong facts viz. using enhanced paid up capital, signifies that the Respondent had performed his attest functions in a casual manner as and when asked for and as a professional did not exercise reasonable care and caution so as to apply necessary professional scepticism while carrying out such attest functions. The Respondent had not even bothered to follow the guidelines laid down in the request for proposal while issuing

various certificates, which was imperative on his part especially when he was certifying as a professional, which were meant to be used for bidding purposes by the Company in tenders floated by NHAI.

**Conclusion**

9. Thus in the opinion of the Committee, the Respondent is **Guilty** of professional misconduct falling within the meaning of Clauses (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.



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

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

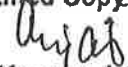
Sd/-  
(CA. Shyam Lal Agarwal)  
Member

Sd/-  
(CA. Sanjay Kumar Agarwal)  
Member

Date: 11<sup>th</sup> January, 2019

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