



**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 :-**

**Mrs. Namita Gupta, w/o Shri Anurag Gupta, Kashipur**

**-Vs-**

**CA. Kulbhushan Garg (M.No. 072629), M/s. KSGA & Company, Chartered Accountants, Kashipur**  
**[PR-341/14-DD/362/14-DC/527/2017]**

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

**CA. Nihar Niranjana 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 findings dated 4<sup>th</sup> September, 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. Kulbhushan Garg (M. No. 072629)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (2) of Part IV of First Schedule and Clause (7) of the 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 4<sup>th</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



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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 verbal representation on the said findings. The Committee further noted that the Respondent also submitted his written representations dated 19<sup>th</sup> December, 2019 and 31<sup>st</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 Respondent stated that as auditor of the Society, he received all the confirmation letters from all persons who have given the unsecured loan except one. Thus, as an auditor, he received more than 80% confirmation an auditor. On enquiry for the remaining confirmation letters from the officer bearers of the Society at that time, they assured him for furnishing the copy of remaining confirmation very soon.

ii) The Respondent stated that the Resolution for conversion of all unsecured loans into corpus fund of the Society was passed by the Management Committee and he was not part of the said meeting.

iii) The Respondent stated that he had no information as to whether there was any rift or dispute between the Chairman of the Society and the Complainant, who had acted as Secretary of the Society during the period August, 2013 to April, 2014. As result of dispute, the Chairman ultimately expressed his inability to produce the confirmation from Mrs. Namita Gupta and accordingly, he was made a scapegoat in the matter.

5. The Committee has considered the reasoning as contained in findings dated 4<sup>th</sup> September, 2019 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



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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. Kulbhushan Garg (M. No. 072629)**, be imposed a fine of **Rs.20,000/- (Rupees Twenty Thousand Only)**, to be payable by him within **30 days from receipt of the Order.**

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

**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-341/14/DD/362/2014/DC/527/2017]**

**In the matter of:**

**Mrs. Namita Gupta,  
w/o Shri Anurag Gupta  
AMBA Station Road,  
Near Income Tax Office,  
U.S. Nagar,  
KASHIPUR-244 713**

**..... Complainant**

**Versus**

**CA. Kulbhushan Garg ....(M. No. 072629)  
M/s KSGA & Company,  
Devashish, Giritai Road,  
U.S. Nagar,  
KASHIPUR-244 713**

**..... 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 : 06.08.2019**

**PLACE OF FINAL HEARING : ICAI Bhawan, New Delhi**

**PARTIES PRESENT** :

**Complainant : Not Present**  
**Respondent : CA. Kulbushan Garg**  
**Counsel For the Respondent : CA C.V. Sajan**

**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 (2) of Part IV of First Schedule and Clause (7) of Part I Second Schedule of Chartered Accountant Act 1949 which states as under :-

*"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."*

And the aforesaid clause (7) states that:-

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

2. In this case the prime allegation against the Respondent is that the Respondent manipulated the Balance Sheet of the "Society" for the year 2013-2014 to wipe out entries of unsecured loans and produced false evidence to SHO and investigation officer. Further allegation on the Respondent is that he does not obtain any confirmation from the Complainant to transfer the Unsecured Loans to the Corpus Fund of the Society.

**Brief facts of the Proceedings:**

3. This matter was earlier heard on 15<sup>th</sup> May 2019 and the Respondent was advised to submit certain documents and the matter was adjourned to 6<sup>th</sup>

August, 2019. The respondent has made his submission vide letter dated 31<sup>st</sup> May, 2019. On the day of hearing i.e. 06.08.2019, the Committee noted that Complainant was not present but a letter was received by the Complainant to request the Committee to proceed with the case with the documents already on record. On the other hand, the Respondent appeared before the Committee along with Counsel. Thereafter, the Committee sought whether he wish to proceed with his defence. The Counsel for the Respondent submits that they have already submitted their final submission before the Committee and they wish to rely upon the written submission and have nothing to add more in their submission. After considering all papers available on record, the Committee decided to conclude the matter.

#### Findings of the Committee

4. On the matter stated above this Committee noted that, at the time of hearing the Respondent appeared before this committee the Respondent accepted his mistakes that he relied upon his earlier submission made before the Committee which is self-explanatory and the Respondent Submitted that he has nothing else to submit on merit.
5. The Committee observed that there is mistake on part of the Respondent for not obtaining the Confirmation of converting unsecured loans into capital (i.e. Corpus Fund). There was an unsecured loan of the Complainant amounting to Rs.23.70 lakhs in the Society wherein the Respondent was the Auditor and he did not act diligently to obtain the confirmation from the Complainant before certifying conversion of the same into Corpus Fund. The same fact was also got confirmed from the witness (President of the Society) who was called for to provide evidence, if any. The witness submitted that the money was never being borrowed; hence there is no question of taking concurrence from the Complainant. But from Respondent's point of view, it was borrowing recorded in books of accounts.

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**Conclusion**

6. In view of the above the committee after noting the acceptance of guilt by the respondent that confirmation was not seen by him from the Complainant indicates that the Respondent was Grossly Negligent in performing his professional duties. Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** under Clause (2) of Part IV of First Schedule and Clause (7) of the Part I of Second Schedule of Chartered Accountant Act 1949.



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

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

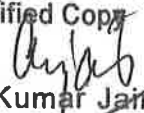
**Sd/-**  
**(CA. RAJENDRA KUMAR P)**  
**MEMBER**

**Sd/**  
**(CA. CHANDRASEKHAR VASANT CHITALE)**  
**MEMBER**

**DATE: 04.09.2019**

**PLACE: Mumbai**

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**