



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. Ajaya Jain, Mumbai

-Vs-

CA. Ranjish Vishwakarma, (M.No.404363), Patna
[PR-6/2015-DD/18/2015-DC/579/2017]

MEMBERS PRESENT (Through Video Conferencing):

1. CA. Nihar N Jambusaria, Presiding Officer
2. Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee)
3. CA. G. Sekar, Member
4. CA. Pramod Jain, Member

1. That vide findings dated 10.02.2020 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. Ranjish Vishwakarma (M.No.404363) (hereinafter referred to as the Respondent") was GUILTY of professional misconduct falling within the meaning of Clause (7) of Part I of the 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 a communication was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 19th January, 2021.

3. The Committee noted that on 19th January, 2021, the Respondent was not present. The Respondent vide his e-mail dated 17th January, 2021 requested to decide the matter

CA. Ranjish Vishwakarma, (M.No.404363), Patna
[PR-6/2015-DD/18/2015-DC/579/2017]



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as deemed fit by the Committee. Accordingly, the Committee decided to proceed ahead with the hearing. The Committee noted that the Respondent vide his email dated 17th January, 2021 submitted his written representation on findings of the Disciplinary Committee.

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

i) The treatment of subsidy accounted for in the Statement of Profit & Loss Account of the Company as on 31st March 2014 is in accordance with the provisions of Accounting Standard 12 issued by ICAI. The amount of reimbursement of VAT in form subsidy of respective state accrued during the year is shown as an exceptional item in the statement of profit & loss account and the amount actually received during the year has been correctly transferred to Capital Reserve. Para 18 of the AS-12 issued by ICAI states that *"Government grants that are receivable as compensation for expenses or losses incurred in a previous accounting period or for the purpose of giving immediate financial support to the enterprise with no further related costs, should be recognised and disclosed in the profit and loss statement of the period in which they are receivable, as an extraordinary item if appropriate (see Accounting Standard (AS) 5, Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies)"*.

ii) Further as per Para 8 of AS-5, it is stated that:

"Extraordinary items should be disclosed in the statement of profit and loss as a part of net profit or loss for the period. The nature and the amount of each extraordinary item should be separately disclosed in the statement of profit and loss in a manner that its impact on current profit or loss can be perceived." That accordingly, the VAT reimbursed in the form of capital subsidy, amounting to Rs 54.84 Cr was first credited to the Capital Reserve (under Head B of Note 4 of Financial Statements of 2013-14). Thereafter the same was withdrawn from Capital Reserve and credited as an Exceptional Item in the Statement of P&L. It is important to state here that the actual grant/subsidy received during the year amounting to Rs 22.33 Cr was transferred and credited to Capital Reserve [Note 4(B) and 4(D)] and thus resultantly, the grant which got accrued but had not been received till the end of the financial year only



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remained credited to profit & loss account as an exceptional item. As such, the government grant actually received during the year remains credited in capital reserve only and not in profit & loss account and ultimately the total government grant gets credited to capital reserve only.

5. The Committee has considered the reasoning as contained in findings dated 10th February, 2020 holding the Respondent Guilty of professional misconduct vis-à-vis written 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, however, the professional misconduct on the part of the Respondents does not qualify for a severe sentence and ends of justice shall be met if a lighter punishment is awarded to the Respondents. Accordingly, the Committee orders that the Respondent, **CA. Ranjish Vishwakarma, (M.No.404363)** be reprimanded and a fine of **Rs.15000 (Fifteen thousand rupees only)** be imposed on **CA. Ranjish Vishwakarma (M.No.404363)**, to be paid within 30 days of receipt of this order.

sd/-

(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

(approved and confirmed through e-mail)

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

sd/-

(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, Shadra. 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-6/2015-DD/18/2015/DC/579/2017]

In the matter of:

Shri Ajaya Jain,
79, Nirman Bhawan,
Nariman Point,
Mumbai-400 021.

.....Complainant

Versus

CA. Ranjish Vishwakarma, (M.No.404363),
C/o Sri Sunil Kumar Jha
Sanjay Nagar, Road No.5,
Postal Park,
Patna,
BIHAR – 800001.

.....Respondent

MEMBERS PRESENT:

CA. Amarjit Chopra, Govt. Nominee, In the Chair

CA. Rajendra Kumar P, Member

CA. Chandrashekhhar Vasant Chitale, Member

DATE OF FINAL HEARING : 16.12.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Delhi

PARTIES PRESENT:

Respondent : CA. Ranjish Vishwakarma
Counsel for the Respondent : Mr. Sumit Kansal (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 guilty under Clause (7) and Clause (8) of Part I of Second Schedule of Chartered Accountant Act 1949. 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;"

And 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;"

2. The Complainant has levelled allegations against CA Ranjish Vishwakarma who is partner of M/s. Singh Dikshit & Co. The said CA Ranjish Vishwakarma, the Respondent is the Statutory Auditor of M/s. JVL Agro-Industries Limited, herein after referred as "the Co." for the year ended 31st March 2014.
3. The Complainant has levelled the following allegations against the Respondent:-
 - I. Capital subsidy amounted to Rs.54.84 Crores is recorded in the profit and loss account for the year ended 31st March 2014 and this item being termed as exceptional has been taken into account while calculating the earnings per share for the said year.
 - II. The disclosure in the quarterly statements reviewed by the Respondent and also the annual audited accounts with respect to the capital subsidy are different. In the quarterly statements the capital subsidy is treated as normal income and the same is given the treatment of exceptional gain in the annual audited accounts.
4. It is the charge of the Complainant that the Respondent is guilty of misconduct under the Clauses (7) and (8) Part I of the Second Schedule of the Chartered Accountants Act, 1949 in as much as they have not qualified the accounts in spite of contravention of Accounting Standard no. 12 issued by the ICAI for the treatment of capital subsidy.





Brief facts of the Proceedings

5. On the date of hearing i.e. 16/12/2019, the Committee noted that the Respondent along-with his Counsel was present and appeared before it.

The office apprised the Committee that the Complainant vide letter dated 07/10/2019 has stated that he will not able to be present personally or through authorized representative for the hearing and wish to reiterate his submissions which already made by him. In view of this, the Committee decided to proceed ex-parte the Complainant.

As per the directions of the Committee, the Respondent submitted the documents/information to the Committee except loan sanction letter and working papers.

After recording the submissions of the Counsel/Respondent, the Committee proceed with the matter.

Findings of the Committee

5. The Director Discipline in his PFO has dropped the charge with respect to the Respondent who was the Statutory Auditor of the Company who submitted that the said company was receiving subsidy from the Government of Bihar and Government of West Bengal to promote industries in the respective states. The said subsidy was in the nature of reimbursement of the Value Added Tax and the Entry Tax. The Value Added Tax and the Entry Tax are first deposited by the company and post-deposit the same are reimbursed. It is the submission of the Respondent that the company has treated this as grant given to compensate tax cost and thereby to promote industrial growth. The Committee questioned the Respondent on the treatment of the said subsidy as per the Accounting Standard no. 12 issued by the ICAI. The Respondent during the personal hearing accepted that he has erred in not showing the same as an exceptional item in the Quarterly Report and disclosing the same as an ordinary item in annual accounts. The 'Para 7.2' of PFO is reproduced as under :-

"As regards charge relating to issuance of certificate is concerned, it is clear that the Respondent had issued the certificate, but as regards the legitimacy of issuing the certificate is concerned, the Respondent in his defence had submitted that as per Notes to accounts of the assessee for the F.Y. 1998-99 (W-8) the Commerical production commenced from 01.04.1999 and, accordingly, the first year would be A.Y. 2000-01 and the 10th year, accordingly, shall be A.Y. 2009-10. He, therefore, issued Form 10CCB entitling the assessee for deduction under Section 80-IB. Hence, it is evident that his basis for issuing the certificate was Notes to Accounts for the A.Y. 1999-2000 he issued the certificate."



Para 7.3 states as under :-

"It is seen from the submissions of the Complainant Department that the assessee had claimed deduction under Section 80-IB for A.Y. 1999-2000. It is, however, seen from perusal of computation of income of assessee for the A.Y. 1999-2000 that the deduction U/s 80-IA was claimed by the assessee (R-31)."

Para 7.4 states as under:-

"It is further observed from note no. 3 of notes to accounts for the year ended 31.03.1999 (A.Y. 1999-2000) (W-8) that the unit is entitled for a benefit under Section 80-IA and hence no provision for Income Tax has been made. This also signifies that the assessee had claimed benefit under Section 80-IA for A.Y. 1999-2000."

6. The Respondent submits that there was no mala-fide intention on his part and if there was any error it was only the presentation in the figures in the annual accounts and thereby pleads lenient view of the Committee. The Committee while noting the plea of the Respondent that he had no mala-fide intentions hastened to record that the standards issued by the ICAI shall be followed in letter and spirit. Any contravention of the same shall be reported by the Statutory Auditor and brought to the notice of the stake-holders and not doing the same amounts to professional misconduct. In conclusion, the Respondent is held guilty of professional misconduct under Clause 7, Part I of II Schedule to the Chartered Accountants Act, 1949.

Conclusion

- 7 In view of the above findings, and reasoning as stated in above Para, The Committee is of the view that the Respondent has grossly negligent while performing his professional duties and did not exercise the due diligence. Accordingly, the Committee is of the considered opinion, that the Respondent is **GUILTY** under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



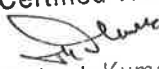
-Sd-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE
PRESIDING OFFICER

-Sd-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd-
(CA. CHANDRASEKHAR V. CHITALE)
MEMBER

DATE:10.02.2020
PLACE: NEW DELHI

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate

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