



**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 Rahul N. Sahaya, Managing Director of M/s. Pigments & Chemical Industries Pvt. Ltd., Kolakta**

**-Vs-**

**CA. Mukhopadhyay Gora Chand (M.No.017630) & CA. Biswanath Bhattacharjee (M.No.062380) of M/s. Gora & Co., Chartered Accountants, Kolkata [PR/168/15-DD/179/2015/DC/714/2017]**

**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 03.02.2020 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. Mukhopadhyay Gora Chand (M.No.017630) & CA. Biswanath Bhattacharjee (M.No.062380)** (hereinafter referred to as the **Respondents**) was **GUILTY** of professional misconduct falling within the meaning of Clauses (5) and (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 Respondents and communications were addressed to them, thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 30<sup>th</sup> July,



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2020 and 19<sup>th</sup> January, 2021. The hearing fixed for 30<sup>th</sup> July, 2020 was adjourned at the request of one of the Respondents, CA. Mukhopadhyay Gora Chand.

3. The Committee noted that on 19<sup>th</sup> January, 2021, the Respondents were neither present nor they filed any written representation on findings of the Disciplinary Committee.

4. In absence of any representations of the Respondents on findings of the Disciplinary Committee, the Committee has considered the reasoning as contained in findings dated 3<sup>rd</sup> February, 2020 holding the Respondent Guilty of professional misconduct. Keeping in view the facts, circumstances of the case and material on record, the Committee is of the view that the professional misconduct on the part of the Respondents are 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 Respondents, **CA. Mukhopadhyay Gora Chand (M.No.017630) & CA. Biswanath Bhattacharjee (M.No.062380) be reprimanded.**

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

DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants 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

[Ref. No. PR 168/15-DD/179/2015/DC/714/2017]

In the matter of:

**Shri Rahul N. Sahaya,**  
Managing Director,  
M/s. Pigments & Chemicals Industries Pvt. Ltd.,  
“Vasundhara”, 4<sup>th</sup> Floor,  
2/7, Sarat Bose Road,  
KOLKATA – 700 020

.....Complainant

**Versus**

<b>CA. Gora Chand Mukherjee, ....(M.No. 017630),</b> 8/2, KS Roy Road, 2 <sup>nd</sup> Floor, Room No.2 & 3, <b>Kolkata – 700 001..... Respondent no.1</b>	<b>CA. Biswanath Bhattacharjee,</b> <b>...(M.No.62380),</b> Rajhans Enclave, Flat No. B203, 68, Santosh Roy Road, <b>Kolkata – 700 008..... Respondent no.2</b>
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**MEMBERS PRESENT:**

**SHRI JUGAL KISHORE MOHAPATRA, I.A.S.(RETD.), GOVT. NOMINEE & PRESIDING OFFICER**  
**MS. RASHMI VERMA, I.A.S. (RETD.), GOVERNMENT NOMINEE,**  
**CA. BABU ABRAHAM KALLIVAYALIL, MEMBER**

**DATE OF FINAL HEARING : 07.11.2019**

**PLACE OF FINAL HEARING : ICAI, Kolkata**

**PARTIES PRESENT:**

**Complainant : Shri Rahul N. Sahaya,**  
**Respondent no.1 : CA. Gora Chand Mukherjee,**  
**Respondent no.2 : Not Present**

**BRIEF OF THE PROCEEDINGS OF THE DISCIPLINARY COMMITTEE:-**

1. The Committee noted that on the day of hearing i.e. 7<sup>th</sup> November, 2019, the Complainant was present. The Respondent no.1 (CA. Gora Chand Mukherjee) was present. But the Respondent no.2 (CA. Biswanath Bhattacharjee) was not present. Since the Respondent no.2 was absent without any prior intimation, the Committee decided to continue with the hearing. The Respondent no.1 was put on oath. On being enquired as to whether he is aware of the charges levelled against him, the Respondent no.1 replied in affirmative and pleaded not guilty to the same. Thereafter, the Complainant made his contentions and the Respondent no.1 made his submissions on the charges. During the course of hearing, the Respondent no.1 admitted that he had received a letter from the Complainant about non-payment of outstanding due to the Complainant Company. After hearing the final submissions, the Committee decided to conclude the hearing in the matter.

1.1 In respect of earlier hearing held on 4<sup>th</sup> January, 2019, the Committee noted as under:-

i) On 4<sup>th</sup> January, 2019, the Complainant was present. The Respondents were not present. There was an e-mail dated 02.01.2019 from the Respondent (CA. Gora Chand Mukhopadhyay) stating therein that he will not be able to attend the hearing as he is under medical treatment for 'Gall Bladder' operation. At earlier hearing also, the Respondent (CA. Gora Chand Mukhopadhyay) had sought adjournment on the ground that he had been busy in professional assignment. However, keeping in view the medical conditions of one of the Respondents, adjournment was granted to the Respondents. While adjourning the matter, the Committee expressed its displeasure over the fact that the Respondents have not submitted their written submissions on the charges yet. The Committee directed that if the Respondents failed to appear before the Committee at the time of next hearing, the Committee would be constrained to decide the matter ex-parte the Respondents.

ii) On 6<sup>th</sup> April, 2018, the Complainant was present. The Respondents were not present. The Complainant was put on oath. The Complainant stated that he understood the charges levelled against the Respondents and the charges can be taken as read by him. Accordingly, the charges were taken as read by the Complainant. Thereafter, the Committee apprised the Complainant that there was an e-mail dated 2<sup>nd</sup> April, 2018 from one of the Respondents.

CA. Gora Chand Mukherjee wherein he has requested the Committee to give one more chance to appear before the Disciplinary Committee as he was not in Kolkata due to professional assignment. Since it was the first request for adjournment from the Respondent, the Committee decided to accede to his request. The Committee directed the Complainant and the Respondent to submit their further submissions, if any, on the charges. The Committee also directed that next hearing would be final opportunity to the Respondents. With this, the hearing in the above matter was partly heard and adjourned.

**CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-**

2. The Committee noted that the Respondent firm had been appointed as auditors of M/s. Falcon Tyres Limited (hereinafter referred to as the "Company") for financial year 2013-14. The Complainant Company, being a SSI Company (Registration No.190121100685), had supplied Zinc Oxide to the said Company and the amount due of Complainant Company was as under:-

Bill No.	Date	Amount (Rs.)	Due Date
17	30.05.2013	19,80,413	28.08.2013
26	22.06.2013	20,81,266	20.09.2013
27	26.06.2013	20,81,266	24.09.2013
	<b>Total</b>	<b>61,42,945</b>	

The Respondents being the auditor of M/s. Falcon Tyres Ltd. has not shown the outstanding amount of Rs.61,42,945/-, due to the Complainant Company, in his Audit Report for the year ending on 31<sup>st</sup> March, 2014.

3. During the course of hearing, the Complainant stated that as per provisions of MSMED Act, 2006, the amount due to MSME was required to be reported in the financial statement along with the interest due thereon. Since the Complainant Company was a SSI company, the Respondents were bound to mention in audit report about non-disclosure of the amount due to the Complainant Company but they failed to do so. The Complainant further stated that before the closure of the financial year 2013-14, he had duly informed to the Respondents about the outstanding amount payable to the Complainant Company but the Respondents did not pay any heed to the said letter and they ignored the disclosure requirement of the law. The Complainant also stated that the Company has still not paid their outstanding dues and thus,

he has approached NCLT under the *Insolvency and Bankruptcy Code, 2016* for recovery of outstanding dues.

3.1. The Respondent no.1 admitted that the Complainant had written a letter about non-payment of their outstanding amount. The Respondent no.1 stated that though he was aware of the disclosure requirements related to SMSE but the Company did not provide details to him at the time of audit. The Respondent no.1, however, added that at the time of audit, he was not aware as to whether the Complainant Company is a SMSE or not. On the same, the Complainant stated that he had duly informed SMSE registration number in the letter written to the Respondents and from the same, it can easily be found that whether the Company is a SMSE or not.

3.2 To a question as to why the Respondent did not mention in his report that the Company had not provided complete information about SMSE and their outstanding dues, the Respondent could not give any cogent reply except stating that he had written number of times to the Company for providing the necessary details but the Company did not provide the same.

4. On perusal of the documents on record, the Committee noted that the Complainant produced the copy of bills / invoices for the amounts due from the Company, duly accepted and acknowledged by the authorized signatory to the Company. Further, on perusal of the extract of Annual Report 2013-14 provided by the Complainant wherein Note no. 4B – “Trade Payables” the amount for Sundry Creditors for Micro, Small and Medium Enterprises has been shown as ‘Nil’ and also in Note no. 29 – “Micro, Small and Medium Enterprise” the amount due has been disclosed as ‘Nil’.

4.1 The Committee noted that as per requirement of Section 22 of Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall furnish the following additional information in his annual statement of accounts, namely:—

*“– the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of each accounting year;*

*– the amount of interest paid by the buyer in terms of section 16, along with the amounts of the payment made to the supplier beyond the appointed day during each accounting year;*

– the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act;

– the amount of interest accrued and remaining unpaid at the end of each accounting year; and

– the amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of dis allowance as a deductible expenditure under section 23.”

5. Taking into accounts all the facts and submissions on record, the Committee is of the view that the Respondents, in spite of being aware about the fact that amount outstanding to the a SMSE company had been neither disclosed nor any notes about the same was given in the financial statement of the Company for the financial year 2013-14, choose to remain silent on the same. Further, if the Company had not provided details of SMSE and amount payable to them, the Respondents were required to qualify his report about the same but they failed to do so. Hence, the Committee opined that the Respondents were grossly negligent in discharge of their professional duties and failed to report about non-disclosure of outstanding dues to the SMSE in the financial statement of the Company for the financial year 2013-14. Accordingly, the Respondents are guilty of professional misconduct falling within the meaning of Clauses (5) and (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.

**Conclusion:-**

6. Thus in the considered opinion of the Committee, the Respondents are **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

**Sd/-**

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

**Sd/-**

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

**Sd/-**

**(CA. BABU ABRAHAM KALLIVAYALIL)  
MEMBER**

**DATE : 03<sup>rd</sup> February, 2020  
PLACE : NEW DELHI**

Certified True Copy



**Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate**

The Institute of Chartered Accountants of India  
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