



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 Balasubramanian Hari, Kolkata

-Vs-

CA. Smriti Sil (M.No 067000), M/s Mitra Roy & Datta (FRN 322477E), Chartered
Accountants, Kolkata

[PR-124/2016-DD/162/16-DC/630/2017]

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. Smriti Sil, (M. No. 067000)** (hereinafter referred to as the **Respondent**) was **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.

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 her thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 19th January,

2021



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3. The Committee noted that on 19th January, 2021, the Respondent was present through Video Conferencing mode and made her verbal representations on the said findings. The Committee also noted that the Respondent vide letter dated 30th August, 2020 made her written representations 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) That conclusion contained in Para 11 of the findings are based on an erroneous understanding of the facts of the case, and interpretation of the Chartered Accountants Act, 1949.

ii) That the Complainant did not mention under which specific clause of a specific part of which schedule to the Act the Respondent was being charged. The Director (Discipline) handpicked a clause from the second schedule and held the Respondent to be guilty under the same.

iii) The Respondent's submissions have not been considered at prima facie stage.

iv) The Director (Discipline) could not have referred the matter to the Disciplinary Committee on a tentative basis.

v) That the submissions of the Respondent have not been considered in totality.

vi) That allegation for which she was held guilty by the Respondent was not part of the allegations made by the Complainant. The Respondent stated that previous year accounts for the year 2012-13 were prepared on mercantile system and accordingly, there was no change in the accounting policy of recognition of transactions.

5. The Committee has considered the reasoning as contained in findings dated 3rd February, 2020 holding the Respondent Guilty of professional misconduct vis-à-vis written and verbal representations of the Respondent on the findings of the Disciplinary Committee.



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
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6. Keeping in view the facts and circumstances of the case, material on record and verbal / 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, however, the professional misconduct on the part of the Respondent does not qualify for a severe sentence and ends of justice shall be met if a lighter punishment is awarded to the Respondent. Accordingly, the Committee orders that **the Respondent, CA. Smriti Sil (M.No.067000) 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-124/16-DD/162/2016/DC/630/17]

In the matter of:

**Shri Balasubramanian Hari
Flat 4B, Golf Towers
9 PGM Shah Road
Kolkata-700095**

.....Complainant

Versus

**CA. Smriti Sil (M.No.067000)
M/s Mitra Roy & Datta
Chartered Accountants
11C, Raja Basanta Roy Road,
Kolkata-700026**

.....Respondent

MEMBERS PRESENT:

**Shri Jugal Kishore Mohapatra, I.A.S.(Retd.), Government 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 Balasubramanian Hari
Respondent : CA. Smriti Sil,
Counsel for the Respondent : CA. A.P. Singh**

Brief of the Disciplinary Proceedings:-

1. The Committee noted that on the day of hearing i.e. 7th November, 2019, the Complainant was present. The Respondent along with her Counsel was present. On being enquired from the Complainant and the Respondent as to whether they would like to have de-novo hearing or wish to have hearing in continuation to earlier hearing held on 4th January, 2019, both parties agreed to have hearing in continuation to last hearing and also stated that they would like to rely upon the submissions and documents on record. Thereafter, the Complainant and the Counsel for the Respondent made their brief submissions related to the facts of the case. The Committee also posed some questions to the Complainant and the Respondent. Thereafter, the hearing in the matter was concluded.

2. In respect of earlier hearing(s) held in the above matter, the Committee noted as under:-

i) On 4th January, 2019, the Committee noted that the Complainant was not present but his Counsel was present. The Respondent was present along with her Counsel. The then Committee informed the parties about the status of the previous hearing and asked the parties as to whether they would like to rely on their submissions made in earlier hearing. The Counsel for the Complainant and the Respondent relied upon the submissions made in earlier hearing. The Counsel for the Respondent made his submissions on charges. The then Committee also posed questions to the Counsel for the Complainant and the Respondent. The Counsel for the Respondent made their final submissions on the charges.

ii) On 25th November, 2017, the Complainant was present. The Respondent along with her Counsel was present. Both the parties were put on oath. With the consent of the parties, the charges were taken as read. On being asked by the Committee, the Respondent pleaded not guilty to the charges leveled against her and wished to defend her case. The Complainant substantiated his charges based upon documents brought on record by him. The Counsel for the Respondent made submissions on the charges. After hearing the submissions, the Committee directed the Respondent to submit certain documents. With this, the hearing in the above matter was concluded.

Charges in brief and Findings of the Disciplinary Committee:-

3. The Committee noted that the instant complaint is related to the audit of Golf Towers Residents Welfare Association (hereinafter referred to as the "**Association**"). The Complainant was a member of the Association. The Committee noted that it was alleged that the accounts which had been audited for the year 2013-14 were erroneously presented and violated the basic principles of accounting and reporting requirement and do not present the correct picture of the accounts / finances of the Association. Further the Respondent signed two Audit Reports for financial year i.e. 2013-14.

4. In respect of above charges, the Respondent in her defence submitted that she had been appointed as auditors by the Association vide appointment letter dated 23rd July 2014 and the accounts were audited for the period from 1st September 2013 to 31st March 2014 and accordingly, the audit report dated 3rd December 2014 was issued for the said period. The Respondent stated that she was not appointed for the complete financial year 2013-14. Subsequently, the Respondent was appointed as auditor for the complete financial year 2013-14 vide their letter dated 12th May 2015 and audit report was issued by her on 27th February 2016 for the said financial year.

5. As regard the question as to why there was difference in opening balance, the Counsel for Respondent submitted that the Respondent was given understanding that the accounts of the Association for the previous year has not been audited. Accordingly, the Association has provided balance as on 1st September, 2013 and the opening cash balances as at 1st September, 2013 had been certified by the management. But after the audit, it was brought to the knowledge of the Respondent that the accounts for the Association for the financial year ending 31st March, 2013 had in fact been audited. This issue was discussed with the management and it was amply clear that that gross misrepresentation had been made to the Respondent with respect to the financial statements of the Association. Accordingly, the Respondent has withdrawn her first audit report by a letter dated 7th January, 2015.

5.1 As regard the difference in the figures of closing balances of two financial statements for the same period ending 31st March, 2014, the Committee noted that the Respondent pointed out the following reasons:-

Closing Balance as on 31.03.2014	Amount as per audit report dated 03.12.2014 (A)	Amount as per audit report dated 27.02.2016 (B)	Reason for difference
Cash in Hand	3345	1912	The exact difference in cash balance is 1,432.95 due to wrong recording of certain entries in both receipts and payments sides and wrong consideration of opening balance as on 01.09.2013.
Sundry Debtors	Nil	5,70,968	Income has been recognized on its accrual in column B as a result, Sundry debtors arise which differ from the column A where income has been recognized on its realization.
Sundry Creditors	Nil	2,64,318	The expenditure has been considered in mercantile basis in Column B, as a result Sundry Creditors, Liability for Expenses and other Liability arise. In contrary, in column A expenditure has been considered only on its actual payment.
Liability for Expenses	Nil	5,31,130	
Other Liabilities	Nil	1,840	
Cash at Bank	1,63,086	1,63,086	There is no change in Cash at bank between column A & Column B.
Prepaid Expenditure	Nil	31,218	This is the prepaid expenditure for lift maintenance. This has been appeared in Column B due to following of Mercantile basis of accounting, in contrary to Column A where cash basis accounting has been followed.
Capital A/c	1,66,431	(30,102)	The capital account as appear in column B is the opening Balance of Capital Account as brought forward from the previous audited Balance Sheet (as on 31.03.2013), adjusted with the Excess of Expenditure over Income as on 31.03.2014 (considering the accounting period from 01.04.2013 to 31.03.2014) and following the mercantile basis of accounting).

6. The Complainant in his submissions stated that the Respondent had written letter to withdraw the first audit report after the enquiry as the said letter not been brought on record earlier. The Complainant further stated that no financial transaction has been recorded for transfer of the flat during the year 31.03.2014. The issue of not demanding / accounting / mentioning the legitimate dues to the Association was brought to the notice of the management and the auditors post the first signed audit report dated 03/12/2014. In this regard, the Committee noted that the Respondent brought on record a copy of letter from Shri B.P. Sonthalia stating therein that as per the best of his knowledge there is no financial transaction for transfer of any flat in golf tower during the year ended 31st March, 2014. Hence, the

Committee is of the view that since there was no transaction of transfer of flat in the financial year 2013-14, no question of recording of the same in the book of accounts arises at all.

7. The Committee considered that the main defence of the Respondent was that second set was prepared based on mercantile system of accounting and due to which difference in the figures arose. As regard the basis of preparation of accounts for the period 1st April, 2013 to 31st March, 2014, the Committee observed that it was mentioned in the notes to accounts that the accounts of the Association was prepared on realization basis. In this regard, the Respondent submitted that the accounts were in fact prepared on mercantile basis but due to clerical error, it was mentioned in notes to accounts that revenue and expenses have been recognized on their realization. He further stated that the said fact even has not been challenged by the Complainant. The Committee enquired as to why the Respondent has not given a note regarding change in accounting policy for recognition of financial transactions in the accounts, the Counsel for the Respondent could not give cogent reply and stated that the same was skipped from the mind of the Respondent at the time of signing of second audit report.

8. The Committee observed that the first audit report was for the period from 01.09.2013 to 31.03.2014 and second audit report was for the entire financial year 2013-14 and hence, there was two different reporting periods for which the Respondent issued two different reports. Moreover, the Respondent had vide her letter dated 7th January, 2015 withdrawn her first audit report. On perusal of the said letter, it is noted that the Respondent requested the management to refrain from circulating to any individual or filing with any regulatory Authority her audit report and audited financial statements dated 3rd December, 2014 relating to the period from 01.09.2013 to 31.03.2014. It was further mentioned that the management should withdraw the same if already circulated or filed. Hence, it appears that the Respondent has taken appropriate steps to withdraw her first audit report after knowing the misappropriation made to her by the management of the Association.

9. On consideration, the Committee was not satisfied with the submissions of the Respondent that due to omission, she could not point out the discrepancy appearing in the notes to account of the Association for the second set of financial statement regarding preparation of accounts on realization basis whereas it was prepared on accrual basis due to which differences in the


figures arises. The Committee noted that disclosure requirement of Accounting Standard – 1 on “Disclosure of Accounting Policies” states as under:-

“25. The disclosure of the significant accounting policies as such should form part of the financial statements and the significant accounting policies should normally be disclosed in one place.

26. Any change in the accounting policies which has a material effect in the current period or which is reasonably expected to have a material effect in later periods should be disclosed. In the case of a change in accounting policies which has a material effect in the current period, the amount by which any item in the financial statements is affected by such change should also be disclosed to the extent ascertainable. Where such amount is not ascertainable, wholly or in part, the fact should be indicated.”

10. The Committee noted that it appears that due to difference in reporting period and change in accounting policy, there was difference in figures of both the financial statements. However, the Respondent could not give any cogent reply as to why she failed to comply with the aforesaid disclosure requirements of Accounting Standard -1. The said act of the Respondent failing to qualify in audit report that a note regarding change in accounting policy has not been given by the Association in notes to accounts and also failed to quantify the material effect of the same in the current period amounts to gross negligence and therefore, he is guilty of professional misconduct falling within meaning of Clauses (5) & (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:-

11. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5) & (7) of Part I of 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 : 3rd February, 2020
PLACE : New Delhi

Certified True Copy

SRINATHI PRAKASH