



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 Laltu Pore, AGM, SEBI, Eastern Regional Office, Kolkata  
-Vs-  
CA. J.K. Amar (M. No.065389), Kolkata  
PR/304/14-DD/04/16-DC/650/2017

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 15.10.2019 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. J.K. Amar (M.No.065389)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clauses (6), (7) and (8) 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 19<sup>th</sup> January, 2021.

3. The Committee noted that on 19<sup>th</sup> January, 2021, the Respondent was present through video conferencing and he made his verbal representations on the findings of



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the Disciplinary Committee. The Committee also noted that the Respondent vide letter dated 23<sup>rd</sup> August, 2020 made his written representations on the said findings.

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

i) That findings of the Disciplinary Committee are erroneous and submissions of the Respondent have not been considered in totality. The Disciplinary Committee has not called any officer or documents from the Company to verify the fact that revised report was received by the Company.

ii) With respect to the second charge relating to misreporting of the amount received on subscription of debentures from debentures holders as share application money in the financial statement, the Respondent stated that the Disciplinary Committee has given its findings without verifying the books of accounts of the Company. The Disciplinary Committee should have called documents from the Company. There was no recording of amount received on subscription of debentures in the books of accounts of the Company.

iii) That the Disciplinary Committee has not provided any reasoning for non-consideration of the assertions of the Respondent. The Disciplinary Committee has merely asked the Respondent to produce proof of certain issues and facts although it is not possible or expected that the working files of the Respondent contain all such details.

iv) That the Complainant had not even specified the respective clauses / part of the concerned schedules to the Chartered Accountants Act under which charges of professional misconduct were made.

v) That the Director (Discipline) and the Disciplinary Committee have acted in derogation of the CA Act and applicable Rules.



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5. The Committee has considered the reasoning as contained in findings dated 15<sup>th</sup> October, 2019 holding the Respondent Guilty of professional misconduct vis-à-vis verbal and written representations of the Respondent on the findings of the Disciplinary Committee.

6. Keeping in view the facts, 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 and ends of justice shall be met if reasonable punishment is given to him. Accordingly, the Committee orders that the name of the Respondent i.e., **CA. J.K. Amar (M.No.065389)** be removed from the Register of Members for a period of 1 (One) month.

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, Shahdra, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH-III (2019-20)]

[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

File no. : PR/304/14-DD/04/16-DC/650/2017

In the matter of:

**Shri Laltu Pore**  
Asstt. General Manager,  
Securities and Exchange Board of India  
Eastern Regional Office  
16, Camac Street,  
L & T Chambers, 3<sup>rd</sup> Floor,  
Kolkata-700017

.....Complainant

**Versus**

**CA. J.K. Amar (M. No.065389)**  
**C/o. J.K. Amar & Co (Regn. No. 326400E)**  
1/1A, Ganesh Sarkar Lane,  
Kolkata-700 023

.....Respondent

**Members Present:**

**CA. Prafulla Preamsukh Chhajed, President**  
**Smt. Anita Kapur, Member (Govt. Nominee)**  
**Shri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)**  
**CA. Debashis Mitra, Member**  
**CA. Manu Agrawal, Member**

**Date of Final Hearing: 15<sup>th</sup> July, 2019 (decided on 23<sup>rd</sup> September,  
2019)**

**Place of Final Hearing: Kolkata**

**Parties Present:-**

- (i) CA. J. K. Amar – Respondent  
(ii) CA. A. P. Singh – Counsel for Respondent

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**Allegations of SFIO, the Complainant:**

1. **Shri Laltu Pore, Assistant General Manager, SEBI, Kolkata** (hereinafter referred to as the “**Complainant**”) has filed complaint in Form ‘I’ dated 28<sup>th</sup> December, 2015 (**C-1 to C-15**) against **CA. J.K. Amar (M.No.065389), C/o. J.K. Amar & Co. (Regn. No.326400E), Kolkata** (hereinafter referred to as the “**Respondent**” and “**Respondent firm**” respectively). The Complainant in his complaint has alleged as under:

- 1.1 **Allegation No. 1:** The Respondent has stated in the Auditor’s Report of M/s. Ramel Real Estate & Infrastructure Ltd. (hereinafter referred to as the “**Company**”) that provisions of the Companies (Auditor’s Report) Order, 2003 were not applicable to the Company and failed to submit statement required under the said Order.
- 1.2 **Allegation No. 2:** There was no item in the Balance Sheet for the year ended 31.03.2012 to show that the Company had issued debentures. The Company had submitted to the Complainant that the issue opening date for the issue of its secured debentures was 27.02.2012. However, in the balance sheet for the year ended 31.03.2012, no amounts were shown under ‘Debenture Application Money’ or under ‘Debenture Issued’. It was further observed from the balance sheet that Rs.15.47 crores was appearing as Share Application Money. However, as per the Company Master Data obtained from MCA 21 Portal as on March, 26, 2014 the paid up capital of the Company was Rs.5,00,000/- only which was the minimum statutory paid up capital to incorporate a public limited Company in India. Hence, it was alleged that the Respondent had misreported the amount received as subscription money from debentures as ‘Share Application Money’.

**Proceedings:**

2. The Committee noted that the Respondent, along with his Counsel, was present during the hearing. It was also noted that the Complainant vide letter dated 8<sup>th</sup> July, 2019 had informed that it had already submitted all the relevant documents/details vide its letter dated 28<sup>th</sup> Dec, 2015 and 3<sup>rd</sup> May, 2018. It was accordingly viewed that based on facts available the Committee may proceed with the matter on merits.

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The Committee, further, noted that during the previous hearing held on 26<sup>th</sup> July, 2018, the Counsel for the Respondent had, interalia, raised his preliminary objections on the authorization of the extant complaint which as per him was not in consonance with the provisions of Rule 3(3) of the CA Rules, 2007. Accordingly, the then Committee gave directions to seek necessary information from the Complainant which was duly received vide Complainant's letter dated 12<sup>th</sup> Sept, 2018 and forwarded to the Respondent vide mail dated 20<sup>th</sup> Nov, 2018 on which the Respondents had given his submissions.

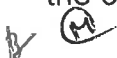
In view of the above, the Committee proceeded ahead in the matter and the Counsel for Respondent proceeded by making defense in the matter. The Committee thereafter examined the Respondent in the matter. The Counsel for the Respondent thereafter made his further submissions in the matter.

After hearing from the Respondent, the Committee directed the Respondent to file the following documents within 14 days of the hearing:

- i. Copy of SFIO Report abstract of which was produced during hearing for defending the matter.
- ii. Confirmation from the Company about receipt of revised Audit report by it on the stated date.

Accordingly, the matter was concluded.

3. On 23rd September, 2019, the Committee noted that the Respondent although did not provide the documents sought for but on 24th July 2019 a copy of the submission of the SFIO in a criminal complaint case filed by it was received with no cover letter or explanation as to the context the document was submitted to the Committee. In any case, the Committee decided to consider the same. Accordingly based on written and oral submissions available on record, the Committee decided to take its decision on the matter.
4. The Committee noted that the Respondent vide letter dated 30<sup>th</sup> July, 2018 made submissions wherein he pointed out that the manner in which the complaint was filed was not as per the requirement of Rule 3(3) of the

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(Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 i.e., the complaint had not been authorized by an individual holding an office equivalent to that of a Joint Secretary nor had been signed by an individual holding an office equivalent to that of an Under Secretary of Central and/or State Government.

5. The Committee noted that the issues raised by the Respondent regarding the issue of authorization was referred to the SEBI which vide its letter dated 12<sup>th</sup> September 2018 stated as follows:
- SEBI is a statutory body established by the Act of Parliament for the purpose of protecting the interest of investors in securities and to promote the development of and to regulate the securities market and for matters connected there with or incidental there to and in order to achieve the said objectives, SEBI recruits officers at various grades.
  - The officers so recruited by SEBI are governed under SEBI (Employees Service) Regulation 2001. Whereas the recruitment, functions and duties of officers in Central government are governed under Central Civil Services (Conduct) Rules, 1964. As both of these rules and regulations were framed for different purposes, the designations, functions and duties of these officers cannot be analogous to each other. Further, it was stated that there are no norms in SEBI that established a strict/ direct one-to-one equivalence between the designations of its officers and those of Government of India.
  - As regards the complaint lodged by SEBI with ICAI, it was stated that the Complaint was lodged after due approval of the Competent Authority. The extant matter was duly approved by Shri Ananta Barua, the then Executive Director, who had authorized the Complainant to lodge the complaint with ICAI.
6. It was noted by the Committee that in the instant matter the approval for filing of complaint was given by the Executive Director (ED) which was the highest cadre Post in the SEBI and beyond ED there were the posts of Whole Time Member and Chairman who were appointed by the

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Cabinet Committee on Appointments by the Government of India. Therefore, ED of SEBI was undoubtedly competent to authorize to file the complaint in terms of Rule 3 and thus could be considered as equivalent in authority to that of Joint Secretary in Central/ State Government. It was viewed that such authority across organization being governed by different set of rules could be compared only in terms of hierarchy followed in respective organizations rather than following any absolute rules of comparison. Hence, objection of the Respondent with respect to Rule 3 was ruled out by the Committee as non-maintainable. The Committee accordingly decided the case on merits.

**Findings of the Committee:**

7. The Committee noted that as regard the first allegation, the Complainant had alleged that the Respondent has stated in the Auditor's Report of the Company for the F.Y. 2011-2012 that provisions of the Companies (Auditor's Report) Order, 2003 were not applicable on the Company and hence failed to submit the statement required under the said Order.
8. The Committee noted that the Respondent in his Written Statement had submitted before the Committee that the CARO Report was applicable to the Company as it was a public limited Company and due to the oversight the copy of the report annexed with the Complaint was issued by him. He further stated that the corrected copy of the Report was immediately issued around late afternoon on the same day and the Company was requested to return all the copies of the withdrawn report immediately. The Committee further noted that the Respondent in his Written Statement dated 25<sup>th</sup> July 2018 had submitted before it a copy of the revised audit report whereby it was contended that the audit report issued earlier was recalled and a correct reporting was incorporated to the effect that the reporting requirement under Companies (Auditor's Report) Order, 2003 was applicable to the Company and a report thereof. He had also brought on record a copy of the letter dated 10<sup>th</sup> August 2012 written by the Respondent to the Board of Directors of the Company wherein while providing a copy of the revised audit report for





the year ended 31<sup>st</sup> March 2012, he had requested the Company to return the earlier audit report and also to confirm that in the meanwhile the same was not provided to anybody.

9. The Committee noted that the letter dated 10<sup>th</sup> August, 2012 brought on record by the Respondent bears no receipt from the Company. Even the name of the person writing said letter was also not mentioned. The Committee accordingly sought from the Respondent the confirmation from the Company that it had received the revised Audit report. However, no such confirmation was produced on record. In the absence of any evidence, the Committee was of the opinion that the Respondent was guilty of this charge.
10. The Committee noted that as regard the second charge, the Complainant has stated that there was no item in the Balance Sheet of the Company for the year ended 31.03.2012 that signifies that the debentures were applied for or issued. It was informed that as per the Company, the issue opening date for secured debentures was 27.02.2012, and that the balance sheet for the year ended 31.03.2012, showed no amount under 'Debenture Application Money' or under 'Debenture Issued' and Rs.15.47 crores was appearing as Share Application Money. It was stated that as per the Company Master Data obtained from MCA 21 Portal as on March, 26, 2014 the paid up capital of the Company was Rs.5,00,000/- only. Thus, it has been alleged against the Respondent that he failed to report about amount received against debentures which was wrongly reported as 'share application money' in the financial statements of the year ended on March 31, 2012.
11. The Committee noted that the Respondent has submitted that the Secretarial records of the Company were not produced before him for verification and in the books of accounts, no debentures had been shown as issued and there was no Debenture Issued Account in the ledger. He further in his Written Statement dated 25<sup>th</sup> July 2018 submitted that though in letter dated 15<sup>th</sup> February 2014 the Company (C-3 and C- 4)



state that the issue of debenture was opened on 27<sup>th</sup> February 2012 and closed on 18<sup>th</sup> October 2012 and thus within the year ending 31st March 2012, however, he argued that no evidence was produced that amount was received against the issue of debentures. He further argued that the financial records of the Company did not include any inflow of funds for issue of such debentures.

12. The Committee also noted the contention of the Respondent that the relevant secretarial records were not produced to him was not tenable as it was his responsibility being the statutory auditor to perform appropriate audit procedures so as to ensure that sufficient and necessary audit evidences were obtained to draw reasonable conclusion. In the extant case, if secretarial records were not produced, then the question arises on the verification procedures adopted by him for verification of Share Application money. The Respondent during the hearing argued that as per SFIO report, shares were issued by the Company. The Committee directed to submit copy of report. It was noted that the Respondent instead submitted submissions of SFIO in a criminal complaint without providing any context with respect to which it should be considered. In any case, the Committee referred the said document and it was noted that on reading para 14 with page 14 it was clear that the Company had issued debentures.
13. The Committee was thus of the opinion that the Respondent had not exercised his due diligence while conducting the statutory audit of the Company and also failed to assess the possible implication of misstatements in the said financial statements. The Committee also noted that the Respondent had not indicated any limitation in the scope of his audit in the audit report which has led to a material misstatement in the financial statements of the Company and indicated gross negligence on part of the Respondent to verify the financial information contained in the financial statement and audit verification done thereto. Thus, in light of the same, the Committee was of the considered view that he not only failed to exercise due diligence in carrying out the audit but also failed to

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obtain sufficient information for expressing an opinion, accordingly, he is held guilty of professional misconduct falling within the meaning of Clauses (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

**Conclusion:**

14. Thus, in conclusion, in the opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning of Clauses (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-  
CA. Prafulla Premsukh Chhajed,  
Presiding Officer

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

Sd/-  
Shri Ajay Mittal, IAS (Retd.)  
Member (Govt. Nominee)

Sd/-  
CA. Debashis Mitra  
Member

Sd/-  
CA. Manu Agrawal  
Member

Date : 15<sup>th</sup> October, 2019  
Place : New Delhi

Certified to be True Copy  
Mohita Khanna  
(Mohita Khanna)  
Assistant Secretary  
Disciplinary Director  
The Institute of Chartered Accountants of India