



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 Information treated against:-

CA. Vikas Gupta (M.No.400885), Kanpur in Re:
[PPR/254D/2016-DD/116/INF/2016-DC/688/2017]

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. Vikas Gupta (M. No.400885) (hereinafter referred to as the Respondent") was GUILTY of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I and Clause (1) of Part II of the Second Schedule to the Chartered Accountants 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 present through video conferencing. The Respondent made his verbal representations on findings of the Disciplinary Committee.



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4. The Committee observed that representations of the Respondent as made in his verbal and written representations summarized as under:-

i) The impact of discrepancies as pointed out in the instant matter was not material when compared to the size of the Balance Sheet and the Profit & Loss Account of the Company. Further, various disclosures were not required to be disclosed as per requirement of AS. While concluding his submissions, he stated that his family is depended upon him and accordingly, he requested to take lenient view if the Committee is not satisfied with his submissions.

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 verbal and 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 and ends of justice shall be met if reasonable punishment is given to him. Accordingly, the Committee orders that name of the Respondent, **CA. Vikas Gupta (M.No.400885)**, be removed from the Register of members for a period of 1 year (one year) and a fine of Rs.1 lac (One lac rupee only) be imposed on CA. Vikas Gupta (M.No.400885) 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)
Certified MEMBER


Anurag Sharma

Assistant Secretary,
Disciplinary Directorate

CA. Vikas Gupta (M.No.400885), Kanpur in Re:
[PPR/254D/2016-DD/116/INF/2016-DC/688/2017]

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. : [PPR/254D/2016-DD/116/INF/2016/DC/688/2017]

In the matter of:

**CA. Vikas Gupta (M.No.400885),
104-A/81,
Ram Bagh,
Kanpur – 208012.**

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee
CA. Rajendra Kumar P, Member
CA. Chandrashekhar Vasant Chitale, Member**

DATE OF HEARING : 06.08.2019

PLACE OF HEARING : ICAI Bhawan, New Delhi

PARTIES PRESENT:

**Respondent : CA. Vikas Gupta
Counsel for the Respondent : CA. Rajiv Mehrotra**

Charges in Brief:-

1. The Respondent was the statutory auditor of M/s Rimjihim Ispat Limited i.e. the Company for the financial year 2008-09. FRRB vide its note dated 28.07.2016 had raised allegation of violation of certain Accounting standards and reporting obligations in general purpose financial statement of the Company for the said financial year, which are as under:-

- 1.1 The first charge is in respect of violation of compliance requirements of AS-1.
- 1.2 The Second charge relating to violation of compliance requirements of AS-17, AS-3.
- 1.3 Third charge is in respect of violation of disclosure requirements of para 120 of AS-15.
- 1.4 The fifth allegation relates to violation of disclosure requirements of Para 10 of AS 9.
- 1.5 The next allegation relates to violation of disclosure fringe benefit tax was not shown separately from provision of income Tax.
- 1.6 In respect of next allegation relating to violation of disclosure requirements of Balance sheet prescribed in Part I Schedule VI to Companies Act, 1956 in respect of Share Capital.
- 1.7 Violation of disclosure requirements of para 26 of AS-13 were not made.
- 1.8 violation of disclosure requirements of Balance sheet prescribed in Part I Schedule VI to Companies Act, 1956 in respect of Current Assets, Loans and Advances.
- 1.9 Violation of disclosure requirements prescribed in Part II Schedule VI to Companies Act, 1956 in respect of interest income.
- 1.10 violation of compliance requirements of AS-2.
- 1.11 violation of disclosure requirements prescribed in clause 3(i)(a) of Part II Schedule VI to Companies Act, 1956 in respect of information pertaining to turnover.
- 1.12 violation of disclosure requirements prescribed in Part II Schedule VI to Companies Act, 1956 in respect of non disclosure of detail by way of note of the calculation of the Commission payable by way of percentage of profits to the directors (including managing directors).
- 1.13 violation of para 20 of SA-700 by not mentioning that financial statements give true and fair view in accordance with financial reporting framework.
- 1.14 violation of para 28 of SA-700 by not mentioning his membership number and firms' name in the audit report.
- 1.15 Last allegation relating to conducting internal audit and statutory audit simultaneously.

Brief facts of the Proceeding:

2. On the day of hearing i.e. 06/08/2019, the Committee noted that the Respondent along with the Counsel was present and appeared before it.



2.1 The Respondent was put on oath. As it is an information case, the officer from Disciplinary Directorate explained the charges in which the Respondent was prima facie held guilty. On being enquired by the Committee, the Respondent pleaded not guilty and wish to defend the charges.

2.2 The Committee directed the Respondent/Counsel to make submissions. The Respondent filed written submission to defend the charges. After recording the submissions of the Respondent/Counsel and perusal of documents/submissions, the Committee concluded the hearing in the captioned matter.

Finding:-

3. Based upon documents on record and submissions of the Respondent, the Committee gives its findings, which are as under:-

3.1 The Committee noted that the first charge is in respect of violation of compliance requirements of AS-1. On perusal of financial statement of Company for the financial year 2008-09, the Committee observed that the accounting policy adopted by the Company in respect of preparation and presentation of financial statements in respect of instances mentioned in para 3.1 of Prima Facie opinion are not disclosed despite the related assets/ expenses/income were recognized in financial statements. Further, when the Directorate specifically called for his working papers, he failed to submit any working papers by mentioning that his papers were misplaced and not found. It is seen that the approach of the Respondent is dealing the matter is very casual and he takes the matter very lightly, hence, he is guilty of non-mentioning of the violation of AS-1 in his audit report.

3.2 In respect of next charge relating to violation of compliance requirements of AS-17, AS-3, the Committee noted that the turnover of the Company for the previous year was Rs. 556.67 crores, which is much more than threshold limit of Rs. 50 crores for qualifying in Level I Companies. Hence, the disclosure requirements of AS-17 and AS-3 were applicable on the Company. The Company failed to give any disclosure of AS-17 in the notes to accounts as well as cash flow statement. The Respondent was

accordingly required to mention violation of AS-17, AS-3 in his audit report. But, he failed to point out the same in Audit Report. Accordingly, he is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.3 The next charge is in respect of violation of disclosure requirements of para 120 of AS-15. On perusal of notes to accounts of the Company, the Committee observed that in respect of disclosure requirements, it is mentioned that "Contributions to Provident Fund are charged to Profit and Loss Account. Provisions for accruing liability of gratuity to employees have been made in accounts".

The Committee noted that requirements of para 120 of AS-15 in respect of disclosure requirement mentioned in its sup para (a) to (o) were not reported. Further, as regards contribution to PF, the Company was required to disclose the same under paragraph 47 of AS-15. The Company neither reported the accounting policy adopted for determining post retirement liabilities has been explicitly stated in notes to accounts nor complied with disclosure requirements of AS 15 with and the Respondent has not drawn attention to this fact in the auditor's report. Accordingly is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.4 The next allegation relates to violation of disclosure requirements of Para 10 of AS 9 by separately disclosing turnover and excise duty. The Committee noted that as per AS-9 the disclosure is required to be made in following manner

Turnover (Gross)	xxx
Less: Excise Duty	xxx
Turnover (Net)	xxx

But it is seen from Profit and loss Account that disclosure made by the Company was not in lines of AS-9. Accordingly, it is not clear whether stated turnover is gross or net off excise duty. Even the accounting policy stated in sub para 2 of para (A) of Schedule M does not provide information about the same. The Respondent was required to mention the

violation in his report and in case if revenue is gross of excise duty then it affects the true and fair view of reported profit. Accordingly is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.5 The next allegation relates to violation of disclosure fringe benefit tax was not shown separately from provision of income Tax. After considering papers on record, the Committee noted that as per para 9 of Guidance Note on Accounting for Fringe Benefit Tax the disclosure is required to made in following manner

Profit before tax			xxx	
Less: Income tax expenses				
Current tax	xxx			
Deferred Tax	<u>xxx</u>	xxx		
Fringe Benefits Tax		xxx	<u>xxx</u>	
Profit after tax				<u>xxx</u>

It is seen from Profit and loss Account that disclosure made by the Company was not in lines of Guidance note. The Respondent was required to mention the violation in his report. Looking into the non-disclosure of certain figures, the Committee held the Respondent guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.6 In respect of next allegation relating to violation of disclosure requirements of Balance sheet prescribed in Part I Schedule VI to Companies Act, 1956 in respect of Share Capital by not disclosing subscribed and paid up capital, the Committee observed that the disclosure made by the Company under this head was not in lines prescribed as

under:



Share Capital	Rs.
Authorised	xxx
Issued	xxx
Subscribed and Paid up	xxx

The Respondent was required to mention the violation in his report. Reporting of Subscribed and issued capital is mandatory in nature and non disclosure of the same makes him guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Moreover, the Committee observed that in previous year paid up capital was more than the authorized capital. Although the said allegation was not raised by the informant i.e. FRRB, but the same establishes carelessness approach of the Respondent in certifying the financial records.

- 3.7 The Committee noted that next charge relates to violation of General instructions given for preparation of balance sheet under Part I, Schedule VI to Companies Act 1956 in respect of failure by the Company to separately annex to the balance sheet statement of investments separately classifying trade investment and other investments.

However, looking upon financial statements of the Company i.e. Schedule 'F' Investments, it is noted that investment has been classified into Quoted and Unquoted only and not as per requirement of AS 13 i.e. trade and non-trade investment. Accordingly, he is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.8 In respect of next allegation relating to violation of disclosure requirements of Balance sheet prescribed in Part I Schedule VI to Companies Act, 1956 in respect of Current Assets, Loans and Advances, it is seen by the Committee that as per the requirement



the 'loans and advances' has not been classified to present if they are secured/ unsecured and considered good or doubtful. It is observed by the Committee that as per instructions given in Part I, Schedule VI to Companies Act, 1956, the loans and advances are also required to be classified into one or more of the following categories as:

- a) loans and advances considered good and in respect of which the company is fully secured;
- b) loans and advances considered good for which the company holds no security other than the debtor's personal security; and
- c) loans and advances considered doubtful or bad.

However, It is noted from the financial statement of the Company that the disclosure was not made in lines with disclosure requirements. Accordingly, he is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.9 The next allegation relates to violation of disclosure requirements prescribed in Part II Schedule VI to Companies Act, 1956 in respect of interest income. As per the allegation the tax deducted at source on Interest income has not been disclosed and hence, it is not clear as to whether such interest income has been reported on gross basis or net basis.

It is seen from Profit and loss Account by the Committee that disclosure made by the Company was not in lines of requirement prescribed. The Respondent was required to mention the violation in his report. Non disclosing of the fact regarding net Interest received or gross interest received can create doubt in mind of users of the statement. In view of the same, he is guilty of professional misconduct falling within the meaning of Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.10 The next allegation is in relation to violation of compliance requirements of AS-2 as well as Guidance Note on Accounting Treatment for Excise Duty in respect of accounting policy of Inventories.

It is observed by the Committee that as regards allegation in respect of (iii) on A-18 of PFO, it is seen that value of moulds was determined at cost (weighted average) only and its net realizable value was not considered while valuing it. Accordingly, same is not in lines with the requirements of para 5 of AS-2. Accordingly, the accounting policy adopted for valuation of moulds was required to be qualified in the audit report. The failure of the Respondent in this respect makes him guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

3.11 The next allegation relates to violation of disclosure requirements prescribed in clause 3(i)(a) of Part II Schedule VI to Companies Act, 1956 in respect of information pertaining to turnover. It is seen by the Committee from Profit and loss Account that the Company had disclosed turnover as single item and had not given different classes of goods and their quantities in respect of turnover as prescribed in clause 3(i)(a) of Part II Schedule VI to Companies Act, 1956. Accordingly, it will not be justifiable to give him any benefit of doubt in is matter and accordingly he is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

3.12 The next allegation relates to violation of disclosure requirements prescribed in Part II Schedule VI to Companies Act, 1956 in respect of non disclosure of detail by way of note of the calculation of the Commission payable by way of percentage of profits to the directors (including managing directors).

Upon perusal of Profit and loss Account, the Committee noted that the directors' remuneration is separately disclosed. However, as regards disclosure by way of note is concerned, then it is observed that the Company defaulted in giving details in the said manner. Further, It is seen that the disclosure made in notes to account (A52) was not sufficient to enable the readers to understand as to whether the remuneration paid to the directors' is in excess of prescribed limit under Companies Act, 1956 or not. The Respondent was required to highlight the violation in his audit report. Accordingly, he is guilty of professional misconduct falling within the meaning of

Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.13 The next charge is in respect of violation of para 20 of SA-700 by not mentioning that financial statements give true and fair view in accordance with financial reporting framework. Moreover there is violation of various Accounting Standards i.e. AS-1, AS-2 AS-3, AS-9, AS-13, AS-15, AS-17, AS-18, AS-20, AS-22 still the auditor had expressed unqualified opinion.

In view of findings given in above paras, the Committee observed that the Respondent failed in complying the provisions of para 20 of SA-700. It is also observed that the approach of the Respondent in dealing the matter is very casual. Hence, he is guilty of violation of disclosure requirements of para 20 of SA-700. Accordingly, he is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.14 The next charge is in respect of violation of para 28 of SA-700 by not mentioning his membership number and firms' name in the audit report.

On perusal of audit report of the Company (A-34) it is seen by the Committee that the Respondent failed in complying the provisions of para 28 of SA-700. Accordingly, he is guilty of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- 3.15 In respect of last allegation relating to conducting internal audit and statutory audit simultaneously, it is noted that in notes to accounts under the heading other information it is mentioned that payment to statutory auditor includes internal audit fees (A-52).

Further, the Committee noted that as per the Guidance Note on Independence of Auditors, issued by the Institute of Chartered Accountants of India, which provide as follows:



"A statutory auditor of a company cannot also be its internal auditor, as it will not be possible for him to give independent and objective report."

The Respondent despite aware of the above guidelines seems to have conducted be internal as well as statutory auditorship of the Company. Hence, the Respondent had violated the Council guidelines and accordingly is guilty of profession misconduct falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:

4. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clauses (7) and (9) of Part I and Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASHEKHAR V. CHITALE)
MEMBER

DATE : 10.02.2020
PLACE : New Delhi

Certified Copy
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Deputy Secretary
Disciplinary Directorate
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