



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

[PR/230/13-DD/13/14-DC/482/16]

**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.**

[PR/230/13-DD/13/14-DC/482/16]

**Shri Sunil Kasat**  
Director,  
M/s. Raghunandan Dying and Printing Mills Pvt. Ltd.  
Plot No.19 to 36  
Sri Krishna Industrial Estate  
Bardoli Road, Vill. Tati Thaiya  
Tal. Palsana  
Surat

**...Complainant**

**Versus**

**CA. Ram Vallabh Chandak.....(M.No. 072015)**  
M/s. R V Chandak & Co.  
103, Empire State Building  
Near Udhna Darwaja  
Ring Road  
Surat- 395 002

**...Respondent**

**DATE OF MEETING : 22<sup>nd</sup> September, 2020 (Through Video Conferencing)**

**MEMBERS PRESENT:**

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. Shri Rajeev Kher, I.A.S Retd., Government Nominee**
- 3. CA. Amarjit Chopra, Government Nominee**
- 4. CA. Rajendra Kumar P, Member**
- 5. CA. Pramod Kumar Boob, Member**



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1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 10.02.2020 the Disciplinary Committee was inter-alia of the opinion that **CA. Ram Vallabh Chandak (M.No. 072015)** was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule and Other Misconduct falling within the meaning of Item (2) of Part IV to the First Schedule to the Chartered Accountant Act, 1949.

2. The Respondent was present before the Committee through video conferencing mode. On being asked about his submissions, he submitted that his case was related to certification of Form 2 - Allotment of Shares and while issuing such form in the alleged matter under consideration before the Committee, he relied upon the necessary papers provided by the company to him. He further submitted that allotment of shares was done by the Company and he had certified & verified Form 2 after applying due diligence. He submitted that on knowing about the existence of a possible dispute between the family brothers, he issued the audit report for the year 2008 with the necessary qualifications in his main report. He added that his conduct was not biased towards anyone of the family members. He submitted that while carrying out the professional assignment, he was not aware about the dispute and he was caught between the said dispute and was tortured a lot. He also spoke about the litigation before the CLB and the role of forensic professionals in relation with the said family dispute and his forced involvement in the entire episode. Thereafter, he pleaded before the Committee to take a lenient view in his case as according to his submissions, he was just made a scapegoat in the entire episode and had no active role in any unscrupulous conduct as alleged in the Complaint.

3. The Committee while looking into the matter, the conduct of the Respondent and considering the gravity of the matter under consideration before it, was of the opinion that in the present matter the guilt of the Respondent is already established as he was found negligent in performing his professional duties diligently as he certified the form for allotment of shares at premium and CA. Ram Vallabh Chandak (M.No. 072015)



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the allotment of shares capital to convert the unsecured loan through MOU. The Respondent failed to check the consent of the person whose loan was converted to capital. The Committee also noted that the Respondent apart from re-iteration of facts submitted by him at hearing stage failed to bring any new fact in his defence. The Committee on account of proven guilt against him by the earlier Bench of the Disciplinary Committee, opined that ends of justice can be met if suitable penalty is imposed upon the Respondent.

4. Therefore, keeping in view the facts and circumstances of the case, material on record, and submissions of the Respondent before it, the Committee ordered that the Respondent i.e CA. Ram Vallabh Chandak (M.No. 072015) to be Reprimanded and a monetary penalty of Rs.20,000/- (Rupees Twenty Thousands only) to be payable by him within a period of 30 days from the receipt of the Order.


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

[confirmed and approved through e-mail]  
(SHRI RAJEEV KHER, I.A.S.(RETD.))  
GOVERNMENT NOMINEE

[confirmed and approved through e-mail]  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

sd/-  
(CA. RAJENDRA KUMAR P)  
MEMBER

[confirmed and approved through e-mail]  
(CA. PRAMOD KUMAR BOOB)  
MEMBER

Certified to be true copy  
  
CA. Suneel Kumar  
Assistant Secretary,  
Disciplinary Directorate  
The Institute of Chartered Accountants of India,  
ICAI Bhawan, Vishwas Nagar, Shahdara, 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 230/13-DD/13/2014/DC/482/2016]

In the matter of:

**Shri Sunil Kasat**  
**Director,**  
M/s. Raghunandan Dying and Printing Mills Pvt. Ltd.  
Plot No.19 to 36  
Sri Krishna Industrial Estate  
Bardoli Road, Vill. Tati Thaiya  
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Versus

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103, Empire State Building  
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Surat- 395 002

...Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer**  
**CA. Amarjit Chopra , Government Nominee,**  
**Shri Rajeev Kher, I.A.S. (Retd.), Govt. Nominee,**  
**CA. Chandrashekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 10.08.2019**

**PLACE OF FINAL HEARING : ICAI Tower, Mumbai**

PARTIES PRESENT :

**Respondent: CA. Ram Vallabh Chandak**  
**: CA. Nikhil Chandak (Counsel for the Respondent)**



IPR 250-12-2003/14-15-2006

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 guilty under Clause (2) of Part IV of First Schedule and is guilty under Clause (7) of Part I of Second Schedule to the Chartered Accountant Act 1949 to the Chartered Accountant Act 1949. The aforesaid Clause (2) states as under:-

*"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."*

**Clause (7) of Part I of Second Schedule**

*(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;*

2. The Committee noted that in this case, the Respondent was the Statutory Auditor of Shri Jagdamba Dyeing and Printing Mills Pvt. Ltd (the Company) for the Financial Year 2006-2007. The crux of the complaint was that the Respondent had, in conspiracy with the management of the Company, certified the Form no.'2' Pursuant to Section 75(1) of the Companies Act, 1956 dated 16/11/2007 for allotment of shares to the Complainant at a premium of Rs.100/- per shares with sole intention to facilitate the Company to stop/delay the payment of the Complainant.
3. The Committee noted that it was a conspiracy of the Respondent with management which is against nature and duty to act as an independent Statutory Auditor of the Company. Such conspiracy is confirmed by the Hon. CLB in its order of our CP 74 of 2008. This order is accepted by the Respondent and not filed any appeal against this Order, which means the Respondent has accepted his guilt and admitted his professional misconduct.

**Brief facts of the Proceedings:**

4. On the day of the hearing, the committee noted that there was a withdrawal letter from the complainant but the Respondent was available. The Committee after reviewing the withdrawal letter decided to continue with the hearing of this case.

wherein the respondent submitted his oral submission. The Committee noted that Respondent was present along with his counsel; on the other side, the Complainant was not present. The Respondent was already on oath. The Committee asked whether the Respondent pleads guilty to the charges, he replied in negative and wished to defend the same. Thereafter, the Respondent made his submissions to defend the charges against him. After recording the submissions of the Respondent, the Committee concluded the hearing in the captioned matter.

#### Findings of the Committee

4. The Committee specifically asked the Respondent that in this entire case is about the MOU, "Whether this MOU was ever submitted in the CLB?" To this, the Respondent acknowledges that MOU was submitted in the CLB and then it went to High Court. Now, the case is pending before the Hon'ble Supreme Court.
5. The Committee further asked the Respondent in any of the paragraphs of the CLB order is the MOU discussed. Replying to this as per submission in the form of MOU made by the Respondent. The Committee further finds that the entire case revolves around the original MOU but looking into papers on record MOU is not notarized. It is only the photocopy provided by the Respondent which is being notarised which clearly indicates that the original copy was not notarized but the only photocopy was notarized which is not legally tenable.
6. The Committee noted that the Resolution attached with MOU was merely on the letterhead of the Company and no stamp paper was used. Further, an unsecured loan was converted into the equity capital by merely the Company's resolution and not any agreement on stamp papers by paying requisite stamp duty. No acceptance from the parties whose unsecured loan is being converted into the equity share was not obtained by the Company.
7. The Committee further noted that in the present case, the Respondent represented that the case was withdrawn by both the parties before the Hon'ble Supreme Court but on contrary, the case was not in favour of the Respondent neither before CLB nor before the High Court level.



8. The Committee noted the submission made by the Respondent's Counsel wherein he submits that for allotment of share at a particular point of time, there existed a dispute between two families i.e. Jawahar family and Kasat family. There was a Memorandum of Understanding (MOU) that mentioned a sequence of activities being followed by both the Companies. This MOU mentions that both the Directors which were common in both the Companies will withdraw their directorship and their Form 32 will be filed accordingly. The parties were facing some disputes internally because of their family matters. Gradually, Directors of both the Companies had resigned from each other's Company. The Kasat family took over one Company and the Jawahar family took another Company and this conversion took place by converting the unsecured loan into share capital which was signed by both the Companies. This particular document was given to Respondent along with Board Resolutions and necessary ledger accounts wherein journal entries regarding the transfer were made by the Company.
9. The Committee further noted that there is a duty of the Chartered Accountant to be more diligent. As an auditor, the Respondent was bound to ensure that the capital is allotted based on a share application form signed by the person concerned. It cannot be allotted just otherwise and the Resolutions as shown by them to the Committee. This Resolution was only with one party's signatures, not both parties. The Directors of the other family might not be present at that particular point in time.
10. Further, Committee noted that there was a withdrawal letter submitted by the complainant to the Supreme Court as well based on that the case at that apex body is already being closed. The committee also noted that there was an order of the Company Law Board (CLB) wherein, it was being clearly mentioned that the allotment of this share capital to convert the unsecured loan through MOU, there was no MOU in existence at that particular point of time and there was a forensic report to certify to corroborate the same as well. Later on, the respondent submitted that there was a notarised MOU but it came to the knowledge of the Committee that the original MOU was never notarized, it was only the photocopy which is certified true copy through the notary.
11. The Committee also noted that the decision of the Company Law Board (CLB) on the mismatch of the signature and existence of MOU was upheld by the Hon'ble High Court also against which the respondent company in the case of the CLB. In view of the entire facts on record, the Committee is of the view that the Respondent is guilty of

professional misconduct for not acting diligently while performing his professional duty. It was the duty of the Respondent to see that there was a consent being received from the person, the Company whose unsecured loan was converted into the share capital and as regard MOU in this subject, its existence is not affirmed as per the decision of the CLB.

### Conclusion

12. In view of the above, the Committee is of the opinion, that the Respondent is not only negligent in his duty by not performing his professional duties diligently certified the Form for allotment of shares at premium and the allotment of share capital to convert the unsecured loan through MOU. Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** in terms of Clause (2) of Part IV of First Schedule and also held **GUILTY** in terms of Clause (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.



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

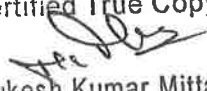
Sd/-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

Sd/-  
(SH. RAJEEV KHER, IAS Retd.)  
GOVERNMENT NOMINEE

Sd/-  
(CA. CHANDRASEKHAR VASANT CHITALE)  
MEMBER

DATE:10.02.2020  
PLACE: New Delhi

Certified True Copy

  
Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
ICAI Bhawan, I.P. Marg, New Delhi-110 002