

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2020-2021)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

**Findings under Rule 18(17) and Rule 19(2) of the Chartered Accountants
(Procedure of Investigations of Professional and Other Misconduct and
Conduct of Cases) Rules, 2007.**

File No. : [PR/312/16-DD/338/16-DC/1313/20]

In the matter of:

**Ms. Gita Hukku,
601, Shishira,
Yamuna Nagar,
Oshirwara, Andheri West,
Mumbai - 400 053**

.....Complainant

Versus

**CA. Ashok Udham Bhatia (M. No. 037323),
M/s Ashok Bhatia & Associates,
Chartered Accountants,
A/324, 3rd Floor,
Morya House, Link Road,
Opp. Citi Mall,
Andheri West,
Mumbai – 400 053**

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Govt. Nominee
CA. Rajendra Kumar P, Member
CA. Pramod Kumar Boob, Member**

DATE OF FINAL HEARING : 08.09.2020 (through Video Conferencing)

PARTIES PRESENT:

Complainant : **Ms. Gita Hukku**
Counsel for Complainant : **CA. Abhay Nath Panikar**
Respondent : **CA. Ashok Udharam Bhatia**

CHARGES IN BRIEF:

1. In the instant matter, the Respondent was the auditor of M/s Shishira Co-operative Housing Society Limited (hereinafter to be referred to as “**the Society**”) for the Financial Years 2014-15, 2015-16 & 2016-17. The Charges in brief against the Respondent are as under: -

- a) Wrong disclosure of amount of loan in the books of the above-said society allegedly being disclosed in such a manner whereby it got increased from Rs 12,36,331/- as on 31st March, 2010 to Rs 19,75,643/- as on 31st March, 2012 and then it remained constant in subsequent financial years, while in actual, the entire such loan was already repaid by all the members of the society by 31st December, 2011 itself.
- b) The Respondent permitted passing of the entries of loans, its repayment & interest relating to such loan account in books of the Society, despite of the fact that it was duly brought to the notice of the Respondent by the Complainant vide several odd letters dated 3rd September 2015, 3rd November, 2015 and 17th November, 2015 .

BRIEF FACTS OF THE PROCEEDINGS:

2. On the day of last hearing i.e., on 8th September, 2020, the Complainant Ms. Gita Hukku was present along with her Counsel CA. Abhay Nath Panikar. The Respondent CA. Ashok Udharam Bhatia was also present before the

Committee. All the parties were present before the Committee through video conferencing mode from their respective places of choice and all of them gave self-declarations as to they were being alone in their rooms and were not recording the proceedings of the Committee being not permitted.

- 2.1 Thereafter, on being asked by the Committee as to whether the Respondent was aware about the charges levelled against him, the Respondent replied affirmatively. Therefore, all the charges alleged were taken as read before him. Further, on being asked by the Committee whether he accepted the charges levelled against him, he pleaded not guilty and expressed his wish to defend his case on his own. Thereafter, the proceedings of the case began whereby the Committee questioned both the sides, listened very patiently to their submissions & arguments for and against the matter in question before it. After considering all the papers available on record and the detailed deliberations and recording the submissions of both the sides, the Committee decided to conclude the matter on this day of hearing.

FINDINGS OF THE COMMITTEE:

3. The Committee noted the fact that the Complainant was an ex-employee of Air India whereby the latter (employer/ Air India) had given a housing loan to one society formed under it by the members of the society (all being employees of Air India) and the members of this society were liable to repay the same. The Complainant had left the services of Air India in June, 2011. The members of the housing society including the Complainant fully repaid housing loan by December, 2011. In the books of accounts of the society for the year ended 31.3.2012, housing loan appeared as the outstanding liability. Therefore, admittedly, the said anomaly in the books of the society made the Complainant to bring this matter in the knowledge of the Respondent through several odd letters, however, as per her allegations, the Respondent ignored the same and permitted the managing committee to continue to disclose the entries pertaining to the said loan in question in its books. Moreover, as per the Complainant, the Respondent neither tried to confirm the fact as to

standing of loan amount with Air India nor did he qualify this fact in his audit report. Therefore, she alleged "conspiracy" with the managing committee on the part of the Respondent in the instant matter.

4. The Committee listened to the arguments presented by the Complainant & her Counsel which broadly spoke about conspiracy, negligence, non-application of due diligence in checking books of accounts of the society and failure on his part in seeking confirmation of balances, on the other hand, the Committee also listened to the defense presented by the Respondent whereby he claimed that he was appointed as the auditor of the society from Financial Year 2014-15 onwards. He added that at the time when he was appointed the auditor in 2014-15, the outstanding balance of the loan amount in question was already appearing in the books as an opening balance as at year end 2011, 2012, 2013 & 2014. Additionally, the Respondent submitted that the management received the NOC from Air India in May, 2016 stating that the loan amount with society stands paid in full and the balance under this head with it was nil. This NOC was considered by the managing committee in its AGM & it was decided unanimously that the same would be given effect in the next year i.e., financial year 2016-17. Therefore, the Respondent submitted that due to this resolution of the society passed unanimously, in which Complainant was neither present nor was she aware about any such resolution of NOC in question, he could not give effect to this in Balance Sheets as at end of FY 2014-15 & 2015-16.

5. The Committee records that the Respondent either should have brought out the fact that the loans appearing in the balance sheet are subject to confirmation or given a proper disclosure of the same in the notes to accounts. However, the Respondent place the reliance on the resolution of the Managing Committee and the accounts approved by the Managing Committee. The Complainant's charge of conspiracy, therefore, fails. Thus, the Committee is of the view that the Respondent is not guilty as the charge of conspiracy and gross negligence have not been proved beyond doubt by the Complainant. Therefore, it held the Respondent - CA. Ashok Udham Bhatia (M. No.

037323) not guilty for the charges levelled against him in the instant matter and exonerated him.

CONCLUSION :

6. In view of the above findings, the Committee is of the view the Committee finds no merit in the complaint filed by the Complainant. Accordingly, in the considered opinion of the Committee, the Respondent was held **NOT GUILTY** under Items (5), (6) and (7) of Part I of the Second Schedule of Chartered Accountant Act 1949.
7. Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passed order for closure of this case.

sd/-

**(CA ATUL KUMAR GUPTA)
PRESIDING OFFICER**

[confirmed and approved through e-mail]

**(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE**

sd/-

**(CA. RAJENDRA KUMAR P)
MEMBER**

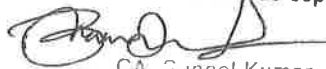
[confirmed and approved through e-mail]

**(CA. PRAMOD KUMAR BOOB)
MEMBER**

DATE: 02/FEBRUARY/2021

PLACE: NEW DELHI

Certified to be true copy



CA. Suneel Kumar
Assistant Secretary,
Disciplinary Directorate

The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Connaught Place, Delhi-110032