



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

[PR/190/14-DD/210/14-DC/664/17]

**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/190/14-DD/210/14-DC/664/17]

Shri Niraj Sharma

Vice President

National Spot Exchange Ltd

FT Tower, CTS No.256/257

Suren Road, Chakala, Andheri (East)

MUMBAI – 400 093

.....Complainant

Versus

CA. Mulraj Devchand Gala... (M. No. 041206)

21, Shastri Niketan

Rama Krishna Chemburkar Marg

Behind Telephone Exchange, Chembur

MUMBAI – 400 071

..... Respondent

MEMBERS PRESENT:

1. CA. Atul Kumar Gupta, Presiding Officer
2. CA. Amarjit Chopra, Government Nominee
3. CA. Pramod Kumar Boob, Member

DATE OF MEETING : 6.10.2020 (Through Video Conferencing)

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. Mulraj Devchand Gala (M. No. 041206)** was **GUILTY** of Professional Misconduct falling within the meaning of Items (5), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. The Committee noted that the Respondent was present before the Bench through Video Conferencing mode and gave declarations as to he was being alone in the room
CA. Mulraj Devchand Gala (M. No. 041206), Mumbai



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from where he was attending the hearing and as to he was not recording the proceedings of the Committee. He made submissions in his defense. The Respondent, among others, submitted that he had conducted the audit in question in good faith and had no clue as to possibility of existence of any problem in NSEL. The Committee noted the submission of the Respondent dated 7th September 2020 and the documents submitted by him vide letter date 30th September 2020. The Committee also heard all the submissions of the Respondent patiently and discussed various aspects relating to the matter under consideration before it.

3. The Committee, among others, noted that while the trade payables were disclosed in the year 2011-12, their corresponding turnover was disclosed in 2012-13. The Committee also noted that the Respondent by giving the audit report in question recognized the liability of the National Spot Exchange Ltd. without reporting the turnover of the same. In view of the above, the Committee was of the opinion that there was a gross negligence on the part of the Respondent and, accordingly, it decided that ends of justice could be met if a reasonable punishment be given to the Respondent.

4. 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 name of the Respondent i.e. CA. Mulraj Devchand Gala (M. No. 041206), Mumbai be removed for a period of One year along with a monetary penalty of Rs 1,00,000/- (Rupees One Lakh only) to be payable by him within a period of 30 days of receipt of the order.

sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

(approved and confirmed through e-mail)

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

(approved and confirmed through e-mail)

(CA. PRAMOD KUMAR BOOB)
MEMBER

Certified to be true copy

Jyotika Grover
Assistant Secretary,
Disciplinary Directorate

The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shadra, 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-190/2014-DD/210/2014-DC/664/2017]

In the matter of:

**Shri Niraj Sharma,
Vice President,
National Spot Exchange Ltd.,
FT Tower, CTS No. 256/257
Suren Road, Chakala, Andheri (East)
Mumbai- 400 093**

..... Complainant

Versus

**CA. Mulraj Devchand Gala (M.No. 041206), Mumbai
21, Shastri Niketan
Rama Krishna Chemburkar Marg
Behind Telephone Exchange, Chembur
Mumbai-400 071.**

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Member (Govt. Nominee)
Shri Rajeev Kher, (Govt. Nominee)
CA. Rajendra Kumar P, Member
CA. Chandrasekhar Vasant Chitale, Member**

DATE OF FINAL HEARING : 09.08.2019

PLACE OF FINAL HEARING : ICAI Tower, Mumbai

Shri Niraj Sharma, Vice President, National Spot Exchange Ltd., Mumbai Vs. CA. Mulraj Devchand Gala, Mumbai

PARTIES PRESENT :

**Complainant: Shri Utkarsh Shah, Legal Manager (Authorized Representative)
Counsel for the Complainant: Ms. Shubra Singh (Advocate)**

Respondent: CA. Mulraj Devchand Gala

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 is guilty under Clause (5), (7), (8) and (9) of Part I of Second Schedule to the Chartered Accountant Act 1949. The aforesaid Clause (5) states that:-

“ (5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;

And the aforesaid clause (7) states that:-

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

And the aforesaid clause (8) states that:-

(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;

And the aforesaid clause (9) states that:-

(9) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;”

2. The allegation in this case by NSEL which is Commodity Spot Exchange under the oversight of Forward Market Commission (FMC), Ministry of Finance that few entities in connivance compromised with the risk management system of the Exchange and defaulted in their obligation. Certain entities sold goods which were supposed to be in their warehouse and received money in against sales. One audit agency appointed by the board of NSEL found that there were no goods in the warehouses of these

entities. This resulted unprecedented settlement crisis. The Respondent was the statutory auditor of M/s Lotus Refineries Pvt. Ltd. for the financial year 2011-12, one of the companies dealing in the exchange. During the financial year 2011-12 M/s Lotus Refineries Pvt. Ltd has dealt with the Complainant i.e. NSEL for transactions amounting to Rs.272.35 Crores, these transactions did not appear in the financial statements of M/s Lotus Refineries Pvt. Ltd. for the financial year 2011-12 audited by the Respondent. The Complainant further alleged that the Balance Sheet of M/s Lotus Refineries Pvt. Ltd. reflects cash and cash equivalent but does not reflect any inventory matching with the turnover. This is contrary to the representations made by the M/s Lotus Refineries Pvt. Ltd. to NSEL that all trades were represented to be backed by underlying commodities. In view of the above, the Respondent failed to disclose a material fact known to him which is not disclosed in financial statements.

Brief facts of the Proceedings:

3. On the day of hearing, the Committee noted that Respondent was present; on other side, the Authorised Representative of the Complainant along with his Counsel appeared before the Committee. The Respondent was put on oath. In the presence of the Authorised Representative of the Complainant and with consent of Respondent, the charges were taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wishes to proceed with his defence. Thereafter, the Respondent placed his defence. After considering all papers available on record and submissions, the Committee decided to conclude the matter.

Findings of the Committee

4. The committee reviewed that in his written statement and at the time of personal hearing the Respondent submitted that he had taken due care while auditing the accounts of the Company M/s Lotus Refineries Pvt. Ltd. During the course of audit, he has not come across any fraud and those NSEL operations were closed on 31st July, 2013. Thereafter as an affirmation of payment crisis at NSEL, an audit agency appointed by the Board of NSEL have found out that there is no stock of commodities in godown. Further he submitted that he has done audit for F.Y. 2011-12 and NSEL had continued its activities with the Company till 31.07.2013 almost 16 months from the close of the F.Y. 2011-12.



- 4.1 On being asked about the sales tax return, invoices, payment of taxes, the respondent submitted before this bench that he had raised the question for amount outstanding of NSEL and he has been told that NSEL was promoted as spot commodity exchange and amount is received as short duration contract and it will get squared up on sales made in the next financial year.
5. The Committee found that the charge on Complainant is that the Respondent has failed in his duties in respect of conduct of audit for the F.Y. 2011-12 of the Company. As per submitted financial statements of the Company, the Revenue from Sales & Service for the financial year ended 31st March, 2012 amounted Rs.831 Lakhs whereas as per the Complainant, the Company had entered into transactions with Complainant's entity - NSEL for Rs.272.35 Crores during the said financial year. On being asked to provide copy of documentary evidence verified by the Respondent how he vouched the turnover of the Company, he failed to submit anything on merit and rather submitted that the management mentioned not to declare any turnover related to NSEL.
6. The Committee further noted that while the statutory auditor has admitted to have checked various Bank transactions, he has not explained as to how such bank transactions had finally been recorded and disclosed in the books of account of the Company especially when there were no purchases being shown but an outstanding amount of Rs.57,75,00,755/- reflected as sundry creditors /trade payable in Financial statement so audited. Committee also noted that as per the rules of the exchange, NSEL was only a trading platform in prescribed commodities wherein buying of commodities on exchange was invariably backed by underlying commodities. Such commodities were stored in the accredited warehouses of the exchange under the supervision and surveillance of the exchange. The buyer of goods had the option to either take physical delivery of commodities or continue to hold the delivery of goods in the accredited warehouses for subsequent sales. As per the norms of the exchange various charges levied by exchange need to be paid by the auditee to NSEL, and that no such charges were appearing in the audited financial statements of the Company.

Conclusion

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7. In the light of the above observations and keeping in view the facts and circumstances of the case, the Committee is of the opinion that the Respondent has conducted the audit without exercising due diligence nor he has obtained the sufficient information to present a true and fair view of the financial statements of Auditee company. Accordingly the Respondent is held **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
8. It is also noted that there is want of exercising due care and caution of the level which is necessary in these kinds of circumstances by the Complainant and need to take appropriate steps to address those who have rendered the Complainant entity to such precarious situation.

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

Sd/-
(SHRI RAJEEV KHER, IAS RETD.)
GOVERNMENT NOMINEE

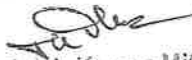
Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

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

DATE:10.02.2020
PLACE: New Delhi

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate

Institute of Chartered Accountants of India
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