



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

[PR-170/2016/DD/194/16/DC/820/2018]

**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-170/2016/DD/194/16/DC/820/2018]

In the matter of:

Shri B.D. Kataria A-3, Indira S/B/H Sadhu Vaswani Nagar, Indore (M.P.)	Shri U.D. Gulani, Res: 615/A, Sadhu Vaswani Nagar Opp. Mukesh Bakery, Indore (M.P.)-452 001
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.....Complainants

Versus

CA. Kamal Nayan Singhal (M.No. 071749)
M/s. K V N G & Associates (FRN No.002628C)
55, Murai Mohalla,
Sanyogitaganj,
INDORE – 452 001

.....Respondent

MEMBERS PRESENT:

- 1. CA. (Dr.) Debashis Mitra, 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. Babu Abraham Kallivayalil, Member**

DATE OF MEETING : 06.04.2021 (Through Physical/Video Conferencing Mode)

- 1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct**



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of Cases) Rules, 2007 dated 10.02.2020, the Disciplinary Committee was inter-alia of the opinion that **CA. Kamal Nayan Singhal (M.No.071749)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of under Items (5), (7) and (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949.

2. Before deciding the quantum of punishment in the matter, the Committee was briefed about the facts of the case. The Committee noted that the Respondent was present before the Bench through Video Conferencing mode and took oath as to the fact that he would speak only the truth and gave self-declaration as to he was being alone in the room from where he was appearing and was not recording the proceedings of the Committee. The Respondent admitted his mistake and submitted that there is no malafide intention on his part. He pleaded that the Committee may take a lenient view in this matter.

3. The Committee taking note of the submission of the Respondent and his pleading is satisfied that no malafide intention is established. The Committee looking into the gravity of charges alleged vis-a-vis admission of the Respondent before it and hence is of the view that the ends of justice shall be met if reasonable punishment is granted to him.

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. Kamal Nayan Singhal (M.No. 071749)**, be reprimanded, however, a penalty of Rs 25,000/- was to be



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paid by him within a period of 30 days and in case of non-payment of fine with in stipulated time, his name shall be removed for 1 month.

sd/-
(CA. (Dr.) DEBASHIS MITRA)
PRESIDING OFFICER

(approved & confirmed through email)
(SHRI RAJEEV KHER, I.A.S. RETD.)
GOVERNMENT NOMINEE

(approved & confirmed through email)
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

(approved & confirmed through email)
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Certified to be true copy

CA. Suneel Kumar
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, Vishwas Naagar, Shaheed

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

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

Findings cum Order 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-170/2016/DD/194/16/DC/820/2018]

In the matter of:

Shri B.D. Kataria A-3, Indira S/B/H Sadhu Vaswani Nagar, Indore (M.P.)	Shri U.D. Gulani, Res: 615/A, Sadhu Vaswani Nagar Opp. Mukesh Bakery, Indore (M.P.)-452 001
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.....Complainants

CA. Kamal Nayan Singhal (M.No. 071749)
M/s. K V N G & Associates (FRN No.002628C)
55, Murai Mohalla,
Sanyogitaganj,
INDORE – 452 001

.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer
Shri Rajeev Kher, Government Nominee
CA. Amarjit Chopra, Government Nominee
CA. Chandrashekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 21.10.2019
PLACE OF FINAL HEARING : ICAI Bhawan, Lucknow

PARTIES PRESENT:

Complainant : Shri B.D. Kataria

Shri B.D. Kataria, Shri U.D. Gulani -vs.- CA. Kamal Nayan Singhal

Respondent : CA. Kamal Nayan Singhal
Counsel for the Respondent : CA. Santosh Deshmukh

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 held guilty under Clause (5), (7) and (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949. The above said Clause (5) of Part I of Second Schedule which states as under :-

"(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;"

Clause (7) of Part I Second Schedule of Chartered Accountant Act 1949 which states that:-

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

And Clause (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949 states as under :-

"(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;"

2. In this case the joint complainant, Shri BD Kataria and Shri UD Gulani (who expired in January 2019) alleged that the Respondent was appointed as the statutory auditor Pujya Seva Mandali Dharmshala Trust (hereinafter referred to as the "Trust") as well as Sai Pritamdas Gobindram Academy (hereinafter referred to as the "Academy 1") and Swami Pritamdas Gobindram Academy (hereinafter referred to as the "Academy 2") wherein the complainants alleged irregularities in the balance sheet signed by the Respondent.

- i) As per the allegation and the PFO the Respondent has not exercised his due diligence and not able to reflect the liability for the dividend payable in the balance sheet so audited.
- ii) There is another allegation that there was misreporting for the purchase of building across the Trust and the Academy along with the difference in the value of purchase.

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- iii) The complainant also alleged for not qualifying the fact of abnormal advances given to staff and outsiders and for holding the cash in hand more than a sum of Rs.1000 following the bye-laws of the Trust.

Brief facts of the Proceedings

3. On the day of hearing, the Committee noted that Complainant was present. The Respondent along with his Counsel appeared before the Committee. The Respondent was put on oath. In the presence 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 wish to proceed with his defence. Thereafter, the Respondent placed his defence. After considering all papers available on record and pleadings, the Committee proceeded with the matter.

Findings of the Committee

4. On the matter stated above, the Committee enquired from the Respondent. The Respondent accepted inadvertently his mistake for not reflecting the liability towards the dividend payable. He submitted that as per the trial balance and other records Rs.25,000/- was reflected as a transfer entry of the deposit at Bank of India was carried forward from last year, inadvertently the entire interest was booked to deposit which could not be adjusted. Accordingly, the sum of Rs.25000 could not be deposited into appropriate head. He further submitted that though the mistake committed by him but a lenient view may be taken by the Committee on the said mistake.
5. The Committee noted that with regards to cross disclosure of purchase of building by the Swami Pritamdas Gobindram Academy (Academy-2) but reflected in the books of Pujya Seva Mandali Dharmshala Trust, the Respondent submitted that being the said Academy is running under the parent Trust that is Pujya Seva Mandali Dharmshala Trust and therefore the amount of purchase for building is being reflected in the balance sheet of Trust rather than in the Academy-2.
6. The Committee noted that the amount for purchase of building (which is as per the stamp value and stamp papers amounts to Rs.19,16,250/- as compared to reflected value amounts

to Rs.27,71,250) was paid by the Swami Pritamdas Gobindram Academy. The said Academy was having a separate financial statement and Pujya Mandali Dharmshala is also having a separate financial statement to which no liability was being reflected towards the Academy-2 whereas the alleged amount for purchase of said building was paid by the Academy-2. The Respondent submitted that since the Trust and the Academy are one and the same and transfer the money with each other was done on a regular basis therefore, there is no practice to reflect the inter-organisation liabilities or the assets among each other.

7. The Committee noted that there are two lapses on the part of Respondent. The one is for reflecting the inflated value of purchase of building from Rs.19,16,250/- to Rs.27,71,250/- and also wrongly disclosing the same in the entity which is other than that which has paid the consideration for the said purchase that is Swami Pritamdas Gobindram Academy.
8. The Committee noted that with regards to next charge which is related to advance to employees and other the complainant could not substantiate/narrate specific instance rather stated that advances given by the Management were duly certified and were as per books of accounts. The Respondent did not provide any clarification in such context.
9. The Committee noted that with regards to holding the cash in hand beyond the value i.e. Rs.1000 permissible under the bye-laws of the Trust. The Committee noted the non-compliance of SA-250 "Consideration of Laws and Regulations in an Audit of Financial Statements" by the Respondent and the Respondent did not qualify his report for the said non-compliance. Replying to above charge related to non-compliance of cash limit, the Respondent submits that the said limit of Rs.1000 was decided 20 years ago and looking the size of the society which increased tremendously over a period of 20 years, cash requirement of business has also increased. Accordingly, there was no reason to qualify our report. The Committee is of the view that for the facts above, it would have been right on the part of the Respondent to have obtained a management representation letter for the said non-compliance and have reported accordingly.
10. The Committee holds the Respondent guilty on all charges except as stated in para 9.

Conclusion

11. In view of the above findings, the Committee is of the view that the Respondent had failed to disclose a material fact known to him which is not disclosed in a financial statement regarding

the purchase of building by the Academy-2 at the same time was grossly negligent while performing his professional work and non-compliance of SA-250 with non-qualification of his audit report. Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** under Clause(5), Clause(7) and Clause(8) of Part I of Second Schedule to the Chartered Accountant Act, 1949



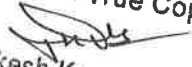
Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(SHRI RAJEEV KHER)
GOVERNMENT NOMINEE

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASHEKHAR 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