



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

[PR 91/13-DD/116/2013/DC/506/2016]

**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 91/13-DD/116/2013/DC/506/2016]

In the matter of:

Shri Madhav Mohan Mathur

Managing Director

M/s. N K (Organic Inorganic) Industries Pvt. Ltd.

117/Q/20, Rajeev Puram

Kanpur - 208 019

..... Complainant

Versus

CA. Anugrah Srivastava ...(M. No. 073264)

B-26, Sarvodaya Nagar

Kanpur -208 005

.....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 of Cases) Rules, 2007 dated 16.12.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Anugrah Srivastava (M. No. 073264)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling under Item (2) of Part IV of First Schedule and Item (7) of the Part I of Second Schedule of Chartered Accountant Act 1949.



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

[PR 91/13-DD/116/2013/DC/506/2016]

2. The Committee noted that the Respondent vide his email dated 1st April, 2021 submitted that he did not wish to attend the hearing and had already surrendered his Certificate of Practice in January, 2020. He further submitted that the case may be decided on merits. Therefore, the Committee in absence of the Respondent, decided to complete the proceedings ex-parte.

3. The Committee looking into the gravity of charges alleged, seriousness of the present case vis-a-vis non-appearance of the Respondent, and the fact that he had already surrendered his Certificate of Practice in January, 2020, is of the view that the ends of justice shall be met if severe punishment is granted to him.

4. The Committee noted that the Respondent is held guilty by Disciplinary Committee and keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent, the Committee ordered that the name of the Respondent i.e. CA. Anugrah Srivastava (M. No. 073264) be removed for a period of One year along with a penalty of Rs 1,00,000/- (Rupees One Lakh only) shall also be payable by him within a period of 30 days and in case of non-payment of penalty in stipulates time, the name shall be removed for an additional 3 months over and above the original punishment of one year.

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

Mukesh Kumar Mittal
Assistant Secretary,
Disciplinary Directorate

Shri Madhav Mohan Mathur vs - CA. Anugrah Srivastava (M. No. 073264)

Page 2

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 91/13-DD/116/2013/DC/506/2016]

In the matter of:

Shri Madhav Mohan Mathur
Managing Director
M/s. N K (Organic Inorganic) Industries Pvt. Ltd.
117/Q/20, Rajeev Puram
Kanpur - 208 019

..... Complainant

Versus

CA. Anugrah Srivastava ... (M. No. 073264)
B-26, Sarvodaya Nagar
Kanpur -208 005

..... Respondent

MEMBERS PRESENT:

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

DATE OF FINAL HEARING : 06.08.2019

PLACE OF FINAL HEARING : ICAI Bhawan, New Delhi




PARTIES PRESENT :

Complainant : Shri Madhav Mohan Mathur
Respondent : CA. Anugrah Srivastava
Counsel For the Respondent : Shri Rejeev Malhotra

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 (2) of Part IV of First Schedule and Clause (7) of Part I Second Schedule of Chartered Accountant Act 1949 which 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.”

And the aforesaid clause (7) states that:-

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

2. In this case the allegations against the Respondent are as follows :-

- 2.1 The Respondent has made wrong certification dated 07th July, 2009 regarding the list of directors and shareholders of M/s. Mahindra Machine Manufacturers Pvt. Ltd. (MMM). The Respondent certified the name of Shri Prabhakar Singh Rathore and Smt. Ranjana Singh as Directors and shareholders. As per the Complainant, Ms. Reena Srivastava and Rajesh Kumar Singh were also on Board as on the date of certificate.

- 2.2 Ms. Reena Srivastava (wife of the Respondent) was the Director of the Company and at the same time, the Respondent was the auditor of

the Company. Moreover, Managing Director of MMM is having two different PAN and DIN in two different names i.e. Mr. Prabhaker Singh and Mr. Prabhakar Rathore and the Respondent firm managed to get these two PAN and two DIN in two different names for the same person which is ill-legal.

- 2.3 The next charge against the Respondent is that Mr. Amit Singh and Ms. Kanchan Rathore were appointed as Directors and this Form 32 was signed by Mr. Prabhaker Singh on 4th October, 2010 after having already resigned on 1st September, 2010. Mr. Amit Singh was appointed as Director of the Company on 15th July, 2010, however he had signed Form 20B and this Form 20B was submitted for the Annual Return of the year 2004, 2005, 2006 and 2007.
- 2.4 The next charge against the Respondent that the registered address given in these Form 20B is wrong and by using forged and illegal documents, fabricated by the Respondent Firm, MMM and its Directors were somehow able to get a loan of about Rs.25 lakhs.

Brief facts of the Proceedings:

3. On the day of hearing i.e. 06/08/2019, the Complainant was present. And also CA. Anugrah Sivastava (the Respondent) along with his counsel appeared before the Committee. Both the Complainant and the Respondent was put on oath. Thereafter, the Committee asked the Complainant to brief the charges. The Complainant briefs the charges from the Prima-Facie Opinion. 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, the Committee decided to proceed with the matter.

Findings of the Committee

4. On the matter stated above, this Committee noted that, the Counsel for the Respondent submitted that the sale agreement relied upon by the

Complainant on which he entered in to an agreement (marked as Annexure-1 on W-20 of PFO) was much beyond the date when the Complainant entered in to agreement with the M/s Mahendra Machines Manufactures (P) Ltd. And the data was on public domain such as MCA website which can be access by anyone including the Complainant.

5. The Committee categorically asked about the allegations pertaining to such an extent that Mrs. Reena Srivastava the wife of the Respondent was Director in the aforesaid Company and drew the attention of the Respondent on FORM 23AC (Annexed as Page 'R-46') wherein the name of Mrs. Reena Srivastava was reflected as Director of M/s Mahendra Machines Manufactures (P) Ltd. The Respondent in his reply submitted that there was a conspiracy done and MR. Sarvesh Srivastava who was in the possession of the Respondent's Digital Signature Certificate (DSC) has misuse his signatures and Uploaded this FORM in year 2011. The Committee further pointed out to the letter written by Mrs. Reena Srivastava (Annexed as 'R-60') wherein she herself written that her name was reflected from 01/09/2006. To corroborate this the Committee also consider the FORM DIN-2 on record (Annexed as W-68) wherein the appointment date was reflected 01/09/2006 and is being signed by Mrs. Reena Srivastava. To this also the Respondent denied that his wife was never the Director in the said Company but the signature appearing on record as mentioned was forged by Mr. Sarvesh Srivastava (Company Secretary for the abovementioned Company). The Committee further noted that that no FIR has been filed by the Respondent or his wife neither on the Company nor any individual for forging and misusing her name.
6. The Committee also noted that the Respondent was having two Permanent Account Number (PAN) and two Director Identification Number (DIN) with his own name. Replying to this the Respondent agreed to the fact that he is having two PAN and two DIN as he officially changed his name through the Court approval due to numerology.
7. The Committee also noted that obtaining two PAN is an offence under the Income Tax Act, 1961 and taking two Director Identification Number (DIN) is offence under the Companies Act, 1956.



8. The Committee further observed that the Respondent mentioned in his oral submission that he ceases to be the Auditor of the Company as he had not done any audit after 31/03/2009. The Committee observed from the records that the Annual General Meeting (AGM) was not held for the alleged period 2008-09 and afterwards also so technically the Respondent never resigned nor removed from the post of Auditor from the aforesaid Company where his wife Mrs. Reena Srivastava was the Director. Therefore, mis-statement by the Respondent before the Committee could not be satisfactorily answered by him.
9. The Committee also observed that the Company has not filed his annual returns for past three years and the Respondent being the Auditor has not qualified the Audit report as Directors are disqualified which shows the gross negligence of the Respondent. Wherein the Auditor did not apply due diligence while preparing the Financial statements of the Company.

Conclusion

10. In view of the above the committee after noting the Respondent submissions and looking into entire scenario, the Committee held the Respondent was Grossly Negligent in performing his professional duties. Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** under Clause (2) of Part IV of First Schedule and Clause (7) of the Part I of Second Schedule of Chartered Accountant Act 1949.


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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE : 16th December, 2019
PLACE : New Delhi

Certified Copy

Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate