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

PR/173/15/DD/170/2015/BOD/432/2018

ORDER UNDER SECTION 21A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

In the matter of:-

Shri Vikas S. Dandagavai, Chief Manager,
Bank of Maharashtra, Nashik Zonal Office, Nashik **.... Complainant**

-Vs-

CA. Shashank S. Manerikar (M.No. 043432) of
M/s. Shashank Manerikar & Co.,
Chartered Accountants, Nashik **.... Respondent**

[PR/173/15/DD/170/2015/BOD/432/2018]

MEMBERS PRESENT(through video conferencing):

CA. Prasanna Kumar D, Presiding Officer
Mrs. Rani Nair, (IRS, Retd.), Government Nominee
CA. Durgesh Kumar Kabra, Member

Date of Final Hearing: 27th October, 2020

1. The Board of Discipline vide Report dated **26th June, 2019** was of the opinion that **CA. Shashank S. Manerikar (M.No. 043432)** is guilty of 'Other Misconduct' falling within the meaning of Clause (2) of Part-IV of the First Schedule of the Chartered Accountants Act, 1949 read with section 22 of the said Act.

2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Shashank S. Manerikar** and communication dated 9th October, 2020 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 27th October, 2020.

3. **CA. Shashank S. Manerikar** made his written representation vide letter dated 07th December, 2019 and also appeared through video conferencing before the Board on 27th October, 2020 and made his oral submissions thereat.

4. **CA. Shashank S. Manerikar,** in his written representation, inter-alia submitted as under:-

(a) Nashik is relatively small town and there were very few senior chartered accountants and the Respondent was staying there for generations. The family of the Respondent is in the field of education and their Trust is imparting education to poor children and the said Trust purely runs on charitable basis and therefore there are heavy deficit in the School. As a mission for educating poor children, Respondent's wife Mrs. Vijayalaxmi Manerikar has dedicated her life carrying on this activity.

(b) No malafide intent on the part of the Respondent is made out, as it was the Trust which sought for, and was granted a stay by the Court of Competent jurisdiction. The Trust is a separate entity in the eyes of law, and since it is running a school at the mortgaged property to protect its own interests, injunctive reliefs were sought by the Trust.

(c) The genuineness of the activities of the Trust have nowhere been impugned by any authority and there is no material on record to indicate that there was any purported collusion between the Respondent and his wife being trustee of the Trust, the Trust proceeded to seek an injunction at the behest of the Respondent and/ or that there was lack of impartiality on part of the Respondent in discharge of his professional duties.

(d) Appropriate injunctive reliefs were granted by the Court of Competent jurisdiction in favour of the Trust, and not in favour of the Respondent, and the Court arrived at its own independent decision making basis of the material on record.

(e) The conclusions arrived at by the Board with reference to purported malafide intention of the Respondent in collusion and not making repayment of the loan and purportedly creating hindrance in recovery of the loan are not in consonance with either complaint dated 21/07/2015 or with the prima facie opinion dated 27/12/2017.

(f) The Respondent was also making repayment of the loans / facilities availed from the Complainant Bank even prior to and after filing of extant complaint, and some payments were made in the current year of his submissions.

5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Shashank S. Manerikar**.

6. As per the findings of the Board as contained in its report, the Respondent colluded with his wife, was not repaying the loan and the Bank declared him a wilful defaulter. All these aspects proved that the Respondent is not paying the loan with malafide intention

which is unbecoming of a Chartered Accountant and thus, it has already been conclusively proved that **CA. Shashank S. Manerikar** is Guilty of 'Other Misconduct' falling within the meaning of Clause (2) of Part IV of the First Schedule of the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

7. Upon consideration of the facts of the case, the consequent misconduct of **CA. Shashank S. Manerikar** and keeping in view his oral and written representation before it, **the Board decided to Reprimand CA. Shashank S. Manerikar (M.No. 043432) and also imposed a fine of Rs.10,000/- (Rs. Ten Thousand only) upon him payable within a period of 60 days from the date of receipt of the Order.**

Sd/-
CA. PRASANNA KUMAR D.
(PRESIDING OFFICER)

Certified to be true copy
CA. Harleen Bhalla
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

BOARD OF DISCIPLINE (BENCH-II)

(Constituted under Section 21A of the Chartered Accountants Act, 1949)

Findings under Rule 14(9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Shri Vikas S. Dandagavai, Chief Manager, Bank of Maharashtra, Nashik Zonal Office, Nashik

-Vs-

CA. Shashank S. Manerikar (M.No. 043432) of M/s. Shashank Manerikar & Co., Chartered Accountants, Nashik

[PR/173/15/DD/170/2015/BOD/432/2018]

CORAM:

CA. Atul Kumar Gupta, Presiding Officer
Shri Arun Kumar (Government Nominee)
CA. Prasanna Kumar D, Member

In the matter of:

Shri Vikas S. Dandgaval,
Chief Manager,Bank of Maharashtra,
Nashik Zonal Office,Griha Nirman Bhawan
Old Agra Road,
NASHIK – 422 002 **.....Complainant**

Versus

CA. Shashank S. Manerikar
M/s. ShashankManerikar& Co.,
Chartered Accountants
F-10, 1st Floor, Silver Plaza, Canada
Corner, Sharanpur Road
Nashik – 422 002 **.....Respondent**

DATE OF FINAL HEARING: 26.06.2019

PLACE OF HEARING: MUMBAI

PARTIES PRESENT:

Counsel for the Complainant	:	**Shri Abhay V Joshi, Advocate**
Respondent	:	**CA. Shashank S. Manerikar**
Counsel for Respondent	:	**Shri S. G. Gokhale, Advocate**

Findings:

1. The Board noted that the Respondent was held guilty by the Director (Discipline) of Other Misconduct falling within the meaning of Clauses (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of said Act on the charge that he availed various loan facilities from the Bank of Maharashtra that too in the name of his Chartered Accountant firm and later on failed to discharge his responsibility intentionally.

2. The Board noted that the Respondent in his name, his firm Name and wife name took four loans from the Complainant Bank. The Board further noted that default in the payment of loan may be due to various aspects, but that should not be due to malafide intention.

3. The Board observed that the Respondent took two loans against property in the name of the Firm. The Respondent during the course of hearing admitted that amount of loan was utilized on construction of a building and the same is mortgaged to Bank. The Respondent also admitted that said building was given on rent to School operated by a Trust and he is not in receipt of any rent from the Trust. The Board hence, noted that entire dispute is that the school is not paying the rental to the Respondent to pay back to the Bank. The Board further noted that Chief Trustee of said Trust is wife of the Respondent.

4. The Board observed that the loan was secured by the property and when the Bank tried to take physical possession of the same, the Trust went to the Court and submitted the lease deed, and obtained a temporary stay. Accordingly, by the entire sequence of events the Respondent is creating a kind of situation which is turning it into as unbecoming of a Chartered Accountant because the Respondent was creating hindrance in respect of recovery of the loan.

5. The Board is of the conclusion that the Respondent colluded with his wife and is not repaying the loan and the Bank has declared him a wilful defaulter. All these aspects go to prove that the Respondent in not paying the loan with malafide intention and it is unbecoming of a Chartered Accountant.

CONCLUSION:

6. Thus, the Board concluded that the Respondent is **GUILTY** of "Other Misconduct" falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act.

Sd/-	Sd/-	Sd/-
(ATUL KUMAR GUPTA)	**(ARUN KUMAR)**	**(PRASANNA KUMAR D)**
PRESIDING OFFICER	**GOVERNMENT NOMINEE**	**MEMBER**

DATE : 26.06.2019

PLACE : MUMBAI

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