



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

PPR/106/15/DD/83B/INF/15/BOD/487/2018

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:-

CA. Shahul Hameed R.A. (M. No.203337), Chennai in Re:

.... Respondent

[PPR/106/15/DD/83B/INF/15/BOD/487/2018]

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: 27<sup>th</sup> October, 2020

1. The Board of Discipline vide Report dated 11<sup>th</sup> February, 2020 was of the opinion that CA. Shahul Hameed R.A. (M. No.203337) is guilty of 'Other Misconduct' falling within the 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. Shahul Hameed R.A. and communication dated 9<sup>th</sup> 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 27<sup>th</sup> October, 2020.
3. CA. Shahul Hameed R.A. made his written representation vide letter dated 17<sup>th</sup> September 2020 and 23<sup>rd</sup> October, 2020 and also appeared through video conferencing before the Board on 27<sup>th</sup> October, 2020 and made his oral representation thereat.
4. CA. Shahul Hameed R.A., in his written representation, inter-alia submitted as under:-
  - (a) The Respondent reiterated his submissions that complaint was submitted in Tamil Language and the Complainants have already stated that their signatures were forged in the complaint. The source of information is a fabricated complaint and thus, any case made out of forged signatures can not be entertained by quasi-judicial authority.



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- (b) Documents received in the connected matter of CA. N.A. Muthu Kumar (BOD-486-2018) and documents received from Mr. T.P. Ganapathy (Proprietor, M/s. Ponny Stores) were relied by the Board to conclude the present proceedings.
- (c) The Tax Audit Report of CA. N.A. Muthu Kumar was relied by the Board as the same was uploaded with the Income Tax Portal and the e-filing of Tax Audit Reports under Section 44AB of the Income Tax Act, 1961 were introduced only in the FY 2012-13 (AY 2013-14) by the Central Board of Direct Taxes (CBDT) Order under Section 119 of the Income Tax Act dated 26/09/2013 granted extension of time for filing Tax Audit Report electronically from 30/09/2013 to 31/10/2013. Mr. T.P. Ganapathy insisted the Respondent to file the Tax Audit Report at a later date due to the said extension and after getting the signed copy of the report from the Respondent failed to respond the Respondent despite several reminders for filing for the Financial Year 2012-13 (Assessment Year 2013-14).
- (d) On verification of the documents received from ICAI in this Disciplinary matter, the Respondent came to notice that Mr. T.P. Ganapathy, Proprietor of M/s Ponny Stores has already obtained certified copy of Financial Statement such as Profit and Loss Account, Balance Sheet, Schedule and also obtained Tax Audit Report for the same Financial Year 2012-13 (Assessment Year 2013-14) from another Chartered Accountant named Mr. Muthu Chartered Accountant on 01.09.2013. But Tax Audit Report filed on 28/09/2013 (Income Tax Filed copy on 27.09.2013 is enclosed) Besides, T.P. Ganapathy Proprietor of M/s Ponny Stores has not filed Income Tax and Tax Audit Report either on 01.09.2013 or 02.09.2013 and Mr. T.P. Ganapathy has purposefully with unjustified manner, delayed the filing of income tax and Audit Report for 27 days.
- (e) The procedure which Respondent followed exclusively for Audit Programs, Audit working papers and including others if mandatory were hand written documents in those year due to lack of provisions. Solely hand written documents cannot said that it is not legal or well grounded.
- (f) The Respondent issued the Tax Audit Report relying on the documents/ books of accounts of Mr. T.P. Ganapathy and listed the particulars of the documents in his submissions.
- (g) The Respondent belonged to poor rural agricultural family, 1<sup>st</sup> Chartered Accountant in Vilampur Village, Idaikalikadu, Cheyyur Taluk, Kanchipuram District, Tamil Nadu and pleaded leniency.

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5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Shahul Hameed R.A.**. Considering the same, the Board held that the objection of the Respondent as regards basis of complaint has already been addressed while arriving at its findings. Also, as per the findings of the Board as contained in its report, the allegations levelled by the Informants with respect to fabrication of balance sheets of M/s Ponny Stores are corroborated with the submissions of Respondent, Mr. T.P. Ganapathy and CA. N.A. Muthukumar. The documents submitted by the Respondent during the proceedings do not inspire confidence as most of them are handwritten documents including audit program, and seems to have been created only to save the skin of the Respondent. On the denial of knowledge and involvement of Respondent with respect to use of audit reports and financial statements issued by the Respondent for M/s Ponny Stores, it cannot be ruled out that such inflated financials were used by Mr. T.P. Ganapathy, Proprietor, M/s. Ponny Stores for procurement of loans from bank. Thus, it has already been conclusively proved that **CA. Shahul Hameed R.A.** 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.

6. Upon consideration of the facts of the case, the consequent misconduct of **CA. Shahul Hameed R.A.** and keeping in view his oral and written representation before it, **the Board decided to Reprimand CA. Shahul Hameed R.A. (M. No.203337) 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.**

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

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



CONFIDENTIAL

BOARD OF DISCIPLINE

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

File No. : [PPR/106/2015/DD/83B/INF/2015/BOD/487/18]

QUORUM:

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

In the matter of:

CA. Shahul Hameed R.A. (M.No. 203337),  
New No. 51 (Old No. 24),  
Tippu Sahib Street,  
Royapettah,  
Chennai-600014

..... Respondent

DATE OF FINAL HEARING : 9<sup>th</sup> January, 2020

PLACE OF HEARING : Chennai

PARTIES PRESENT:

Respondent : CA. Shahul Hameed R.A.

FINDINGS:

1. The Board noted the charge against the Respondent that he alongwith two other Chartered Accountants namely CA. Senthil Kumar R and CA. CA. N.A. Muthukumar have helped Mr. T.P Ganapathy, Proprietor of M/s Ponny Stores in fabricating the Balance Sheets of the said firm. The Informants alleged that with the help of those Balance Sheets, said Mr. T.P Ganapathy took several loans from the Bank and purchased different properties including one benami property. The crux of the allegation is that different audit reports were prepared by the Chartered Accountants, (Respondent

CA. Shahul Hameed R.A. (M.No. 203337), Chennai

being one among them) in respect of the same concern for the same financial year i.e. 2012-13 to help out their client Mr. T.P Ganapathy.

2. The Board at the time of hearing held on 9<sup>th</sup> January, 2020, noted that the Respondent was present before it. The Board noted that at the time of last hearing held on 25<sup>th</sup> April 2019, it had directed the Respondent to submit the copy of his appointment letter for the financial year 2012-13 duly accepted by him, the copy of his letter seeking the no objection from the previous auditor before accepting the appointment as tax auditor along with the proof of delivery of the same, the copy of the no objection received from the previous auditor, copy of the no objection he gave to the subsequent auditor since as per his own admission he conducted the tax audit for only one financial year, working papers, audit schedule, management representation letter, trial balance, Balance confirmation certificate for all the banks, details of amount due from the client along with any communication with him regarding the recovery of the same. The Respondent provided certain documents like appointment letter, NOC letter, etc. at the time of hearing. The Respondent made his oral as well as written submissions before the Board.

The Board deliberated on the facts of the case alongwith the submissions of the Respondent and documents available on record. Upon consideration, the Board concluded the hearing in the case and decided to take final decision on the guilt of the Respondent after consideration of the further submissions of the Respondent. The Board also directed the office to prepare a comparative chart of the case together with case no. BOD 486/2018 and BOD 488/2018 so that the conduct of the Respondent(s) can be examined properly.

Accordingly, the Board kept the judgment reserved in the matter.

3. Thereafter, the Board during the meeting held on 30<sup>th</sup> January, 2020 directed the Directorate to seek the following information/ documents:-

3.1 From CA. N.A. Muthukumar:-

- a. Audit working papers with respect to tax audit of M/s. Ponny Stores for F/Y 2008-09 to 2012-13 to the extent not submitted by Respondent i.e. copy of Trial Balance, Ledger Accounts, Third Party confirmations, Management Representation Letters, etc.
- b. Whether the said entity was subject to VAT audit during the period 2008-09 to 2012-13? If yes, then details thereof such as name of the VAT auditor and copy of VAT audit report; and whether the same has been filed with the concerned authorities.

3.2 From the Respondent (CA. Shahul Hameed):-

- a. Whether Tax Audit report of M/s. Ponny Stores for F/Y 2012-13 signed by you has been filed with Income Tax Department? If so, then provide evidence for the same.
- b. Audit working papers with respect to tax audit of M/s. Ponny Stores for F/Y 2012-13 to the extent not submitted by you (CA. Shahul Hameed) i.e. copy of Trial Balance, Ledger Accounts, Third Party confirmations, etc.
- c. Whether the said entity was subject to VAT audit for F.Y. 2012-13? If yes, then details thereof such as name of the VAT auditor and copy of VAT audit report; and whether the same has been filed with the concerned authorities.

3.3 From Mr. T.P. Ganapathy, Proprietor, M/s. Ponny Stores:-

- a. Details of Tax Auditor and VAT Auditor of the entity for the period 2008-09 to 2012-13, such as name of the auditors alongwith the copy of such audit reports.
- b. Proof of filing the Tax Audit and VAT Audit Reports for the above period with the concerned authorities i.e. Income Tax Department and Department of Trade & Taxes.
- c. Clarify the position wherein 2 sets of financial statements audited by 2 different auditors for the same F/Y 2012-13 are on record.

4. Accordingly, the Directorate issued separate letters/ emails addressed to the Respondent, CA. N.A. Muthukumar and Mr. T.P. Ganapathy, Proprietor, M/s. Ponny Stores respectively.
5. Thereafter, the Respondent vide his letter dated 01/02/2020, CA. N.A. Muthukumar vide his letter dated nil received on 07/02/2020 and Mr. T.P. Ganapathy, Proprietor, M/s. Ponny Stores vide his letter dated nil received on 07/02/2020 submitted the various documents/ information called for from them.
6. The Board also noted that three separate cases i.e. one against Respondent and other two against other Chartered Accountants i.e. CA. N.A. Muthukumar (PPR/106/15/DD/83A/INF/15) and CA. Senthil Kumar (PPR/106/15/DD/83C/INF/15) were instituted on the Information received from the Informants vide their letter dated 24<sup>th</sup> June, 2014 and since the facts and circumstances of the case are similar, the documents/ records of other two cases were also pursued to arrive at logical conclusion in all the three cases.
7. The Respondent vide his written submissions dated 02/04/2019 stated as under:-

- 7.1 The present complaint arose due to dispute between Mr. Ganapathy and his two brothers and the same is used to tarnish the reputation of the Respondent.
- 7.2 The Complaint in the form of letter in Tamil language dated 24<sup>th</sup> June 2014 purportedly received from two of the Complainants of three brothers, namely Mr. T.P. Saravanavel and Mr. T.P. Madhan and the same is not received as a 'complaint' as such but only as an 'information' within the meaning of the said term under Rule 7 of the aforesaid Rules, 2007.
- 7.3 The Informants have denied the knowledge of letter dated 24<sup>th</sup> June, 2014 purported to have been jointly addressed to the Institute. Further, the Informants have also complained that purported signatures as contained in the said letter were only forged signatures and that somebody with criminal intention had forged their signatures and had dispatched the letter without their knowledge. Further, the Informants have also sent a legal notice dated 21<sup>st</sup> August, 2015 to the Institute enclosing two notarized affidavits respectively sworn by them. Therefore, the information is an anonymous information.
- 7.4 The English translation of the letter dated 24<sup>th</sup> June, 2014 contains the name of auditor as 'Thiru. Abdul Hameed' and not the name of the Respondent.
- 7.5 The Respondent denies the allegations levelled against him in the letter dated 24<sup>th</sup> June, 2014 and submitted that Director (Discipline) ought not to have rendered any findings in PFO much less in paragraphs 7.5 to 7.8 of PFO.
- 7.6 Mr. T.P. Ganapathy had furnished proper account books for Respondent's examination. Further, Respondent had no knowledge that other auditors had also acted as his client's auditors and had attested the respective P&L A/c and Balance Sheet for his client. Further, the Respondent had factually looked into and verified all the necessary books of accounts, accounting records, information and explanation from his client and had thereafter attested his P&L A/c and Balance Sheet. Further, the Respondent had no reason to even suspect the movements or motive of his client.
- 7.7 The Respondent did not undertake any work for his client in respect of availing any bank or other loan. Further, the Respondent did not know if his client Mr.T.P. Ganapathy had purchased any property in his wife's name as a benami purchase. The role of the Respondent as his client's auditor for the relevant period was strictly according to law and established accounting procedures.
- 7.8 There was a clerical error in date which was occurred while taking computer printout of the Profit and Loss Account, Balance Sheet and Audit Report for FY 2012-13.
- 7.9 The Respondent had satisfied himself that his client has had all necessary books of accounts, accounting records, information and explanation and only after looking into the same, the Respondent had attested his client's P&L A/c and Balance Sheet.

8. With regard to the preliminary objection of the Respondent regarding the basis for treating the matter as 'Information' against the Respondent, the Board in its view noted the decision of the Hon'ble Appellate Authority in the matter of P. Siva Prasad versus ICAI (Appeal No. 1/ICAI/2012) and Chintapatla Ravindernath –Vs- ICAI (Appeal No. 2/ICAI/2012), which provides as under:-

*".....It is not necessary that there has to be an informant to invoke Section 21 and that the Director (Discipline) cannot suo moto take action after coming to know of a serious professional mis-conduct of a CA through news report or media. Clause (1) of part 4 of First Schedule provides that if a Member is held guilty by civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months, the Member shall be deemed to be guilty of other misconduct. If a news item appears either in print media or in other media about a Chartered Accountant having been convicted by a court for an offence say of cheating, fraud, Rape, theft etc., it would be obligatory on the part of Director (Discipline) to find out truthfulness of such news item and thereafter issue notice to the Member and verify the facts from him. The Director (Discipline) has to send its prima facie opinion even in respect of information received through media to the Board of Discipline or the Disciplinary Committee as the case may be. The action on the basis of information includes and means the information received from any source, including media." (emphasis added).*

Therefore, in view of the above, it is clear that Section 21 of the Chartered Accountants Act 1949 gives powers to the Director (Discipline) to initiate action on the basis of 'Information' received from any source. Thus, the preliminary objection of the Respondent is not maintainable and the case is dealt with on merits of the facts/ documents on record.

- 8.1 With respect to the issue of Appointment and No Objection Certificate from previous auditor, the Board noted that following documents/ letters/ correspondence have been submitted by the Respondent and CA. N.A. Muthukumar:-

**Table 1**

Particulars	CA. N.A. Muthukumar (A)	CA Shahul Hameed (B)
Letter issued by CA. N.A. Muthukumar to M/s B. Panneer & Co. seeking objection if any, for appointment as Statutory Auditor for FY 2008-09	07/05/2009 (being continued auditor for FYs 2008-09 to 2012-13)	
Reply of NOC letter by M/s B. Panneer & Co. to CA. N.A. Muthukumar	07/05/2009	
Date of Appointment letter issued by M/s Ponny Stores for FY 2012-13	12/05/2013	09/08/2013

Letter seeking no objection from previous auditor N.S.Radha Krishnan by CA Shahul Hameed		12/08/2013
Reply of NOC letter by N.S.Radha Krishnan to CA Shahul Hameed		14/08/2013
Date of signing of financials	01/09/2013	27/09/2010
Date of successful filing of Form 3CB	28/09/2013	--

Thus, it is observed that CA. N.A. Muthukumar was continued tax auditor since Financial Year 2008-09 to 2012-13 and has duly procured NOC from previous auditor M/s. B.Panneer & Co. The Board further observed that the CA. N.A. Muthukumar was appointed first i.e. on 12/05/2013 by Mr. T.P Ganapathy, Proprietor of M/s Ponny Stores for FY 2012-13 to conduct the Tax Audit.

- 8.2 With respect to conduct of tax audit and filing of tax audit report with Income Tax Department, the Board noted that:-

**Table 2 - Other documents submitted by Respondents**

CA. N.A. Muthukumar (A)	CA Shahul Hameed (B)
Screen shot of activation date 12/08/2013 of Form 3CB for Mr. T.P. Ganapathy by CA. NA Muthukumar	Management Representation Letter dated 20/08/2013 issued to CA. RA Shahul Hameed
Screen shot of successful filing of Form 3CB on 28/09/2013 for Mr. T.P. Ganapathy by CA. NA Muthukumar	Audit Programme for Financial Year 2012-13
ITR 4 for Assessment Year 2013-14 for Mr. T.P. Ganapathy by CA. NA Muthukumar (date of Audit Report 01/09/2013)	Audit Schedule for Financial Year 2012-13
Form 3CB dated 27/09/2013 for Shri T P Ganapathy by CA. NA Muthukumar	Other working papers and staff letter of work done for Financial Year 2012-13
Form 3CD for 2012-13 of Shri T P Ganapathy by CA. NA Muthukumar	Response of Respondent dated 01/02/2020
ITR acknowledgment dated 27/09/2013 for ITR 4	

CA. N.A. Muthukumar has submitted screen shot of website of Income Tax Department wherein it is seen that CA. N.A. Muthukumar has successfully filed Form 3CB for Mr.T.P. Ganapathy on 28/09/2013. Upon perusal of response of Respondent dated 01/02/2020, the Board noted that the Respondent has not filed Tax Audit Report of M/s. Ponny Stores for financial year 2012-13 and after obtaining the signed financial statements and tax audit reports from the Respondent, the proprietor of M/s Ponny

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Stores has not responded for Income Tax filing for Financial Year. This raises strong suspicion on the conduct of the Respondent with respect to issue of tax audit report.

Further, upon perusal of response of Mr. T.P. Ganapathy, Proprietor, M/s. Ponny Stores received on 07/02/2020, the Board noted that M/s N. Muthukumaraswamy & Co. was the Tax Auditor of the said firm for financial year 2008-09 to 2012-13. Thus, the Respondent was not the tax auditor of the said firm and further has not filed the Tax Audit reports.

- 8.3 Upon perusal of Computation sheet for the concerned FY 2012-13, Trading and P&L account for the year ended 31/03/2013 and Balance Sheet as on 31/03/2013 submitted by Informants and further corroboration by documents submitted by the Respondent and CA. N.A. Muthukumar, it is observed that:-

**Table 3**

Particulars (FY 2012-13)	Amount as per documents submitted by CA. N.A. Muthukumar (Rs.)	Amount as per documents submitted by Respondent (Rs.)
Sales	2,08,68,995	8,38,57,882
Closing Stock	82,91,920	1,49,77,736
Opening Stock	72,66,164	1,48,50,086
Purchases	1,61,91,763	7,27,88,390
Net Profit	9,10,591	9,10,591
Fixed Assets	36,02,881	4,15,08,018

Thus, there are glaring variations in the figures of both set of financials submitted by CA. N.A. Muthukumar and submitted by the Respondent for the same entity M/s Ponny Stores of Proprietor, Mr. T.P. Ganapathy though the net profit of the entity was same i.e. Rs. 9,10,591 for Financial Year 2012-13.

- 8.4 The Board further noted that the allegations levelled by the Informants with respect to fabrication of balance sheets of M/s Ponny Stores are corroborated with the submissions of Respondent, Mr. T.P. Ganapathy and CA. N.A. Muthukumar. The documents submitted by the Respondent during the proceedings do not inspire confidence as most of them are handwritten documents including audit program, and seems to have been created only to save the skin of the Respondent. Further, on the denial of knowledge and involvement of Respondent with respect to use of audit reports and financial statements issued by the Respondent for M/s Ponny Stores, it cannot be ruled out that such inflated financials were used by Mr. T.P. Ganapathy, Proprietor, M/s. Ponny Stores for procurement of loans from bank.

CONCLUSION :

9. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **Guilty** of "Other Misconduct" falling within the meaning of Clause (2) of Part IV of First Schedule read with Section 22 of the said Act.

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Sd/-  
CA. SUSHIL KUMAR GOYAL  
(PRESIDING OFFICER)

Sd/-  
MRS. RANI NAIR (IRS, Retd.)  
(GOVERNMENT NOMINEE)

Sd/-  
CA. DURGESH KUMAR KABRA  
(MEMBER)

DATE: 11<sup>th</sup> February, 2020  
PLACE: New Delhi

Certified Copy  
*henu*  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
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