



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR/308/15-DD/270/2015-DC/765/2018

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.

File No. File No. : PR/308/15-DD/270/2015-DC/765/2018

In the matter of:

Mr. K.S. Kaushik,
Deputy Director, Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
Govt. of India, 2nd Floor, Paryavaran Bhawn,
C.G.O. Complex, Lodhi Road,
New Delhi – 110 003

.....Complainant

Versus

CA. ABPS Sastry (M.No.021662),
M/s. ABPS Sastry & Co., Chartered Accountants,
Plot no.23, House No.1-4-174/23,
DLR Enclave, Sainikpuri,
Secunderabad - 500 094

.....Respondent

Members present:

CA. Nihar N Jambusaria, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. P.K. Boob, Member

Date of Final Hearing: 29th April, 2021 through Video Conferencing

Place of Hearing: Mumbai

1. That vide report dated 3rd February 2021 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. ABPS Sastry (M.No.021662)** was **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5), (6), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of statutory audit of Paramount Agro Complex Limited (hereinafter referred to as the "**Company**") conducted during the financial years ending as on 31.03.2001 to 31.03.2006 for his failure to report in his audit report in respect of the following:-

- i) that the paid-up capital of the Company for the financial year 2000-01 was falsified and
- ii) that the value of land sold to M/s Chalapathi Estates Pvt Ltd was understated during the financial year 2005-06 .

It was noted that Clauses (5), (6), (7) & (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 state as under:-



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Second schedule Part I

“(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;

(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity

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

(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. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 12th April 2021 was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 29th April 2021 through video conferencing.

3. The Committee at the outset noted that the Respondent did not appear before it during hearing but vide his e-mail dated 22nd April, 2021 the Respondent had referring to his old age and doctor's advise in wake of COVID pandemic expressed his inability to attend hearing either in person or through video-conferencing. Thus, the Respondent requested the Committee to finalise its action considering his written representation made in the matter as he had nothing further to submit in the matter. Accordingly, the Committee considered the written submissions made by the Respondent vide his letter dated 30th March 2021 wherein he submitted that he had certified the Financial statements based on the information and books of accounts produced before him at the time of audit as well as balance sheets and annual returns of the previous period. He argued that as an auditor his responsibility was only to comment on the affairs of the Company and that he was not responsible for running the operations of the Company. As per him, the allegations in the extant matter were based on personal deposition of the Directors who had internal disputes among them as prevalent from the fact they often indicated contradictory stand from action taken from time to time. The Respondent further submitted that the documents were filed with ROC including the Annual returns of the Company from 1994-95 to 1999-2000 which were filed before NCLT by one of the directors of the Company. With respect to charge of value of land sold being understated and rest being recorded as proceeds from sale of Jatropha crops though the land in sale deed was stated to be bearing no such crops, the Respondent submitted that there existed certain specific rules for sale transaction of agricultural lands or vacant lands and hence the sale deed did not mention about this

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crop. Further, cultivating Jatropha crops was non- agricultural activity, hence no specific permission was required and that income generated was a miscellaneous income and not the main income of the Company. With respect to non-production of working papers, he informed that substantial time had lapsed between the time when the audit was done and when the documents were required. Meantime, he had changed his office twice and therefore he had to destroy the old files.

4. The Committee considered the written submissions of the Respondent and noted the Findings as made out in the Investigation report of SFIO under Para 3.16.5 (C-65 to C-66) and reproduced in Para 5 of the DC Findings which inter-alia stated that that even though the events of allotment of equity shares were shown to have occurred on 28.03.1995 and 30.03.1998, there was sufficient reason to believe that the same had not taken place on the said dates, but only after there was change in the management by inducting new directors who in connivance with the other two promoter directors, had manipulated the situation to increase their shareholding (and, ultimately the control in management) in the company with practically no investment and in absence of any Cash Book, or any other primary accounting record maintained by the company, it could not be conclusively said whether the allottees had actually made any contribution towards investment in the Company or not. The Committee further noted that the Respondent who was the auditor of the Company for the FY 1994-95 to 2005-06 had failed to produce any evidence to substantiate that the audit he had carried was done diligently. The Committee also noted from the content of Sale Deed of land (C174-C188) executed on 9th March, 2006 read with the confessional statement of Shri S. Ramesh Reddy, one of the director of the Company (C-230) that land was barren and no crop cultivation was done from the date of purchase till then which in the absence of any document from the Respondent to prove his bonafides indicate that revenue recorded in the financials were also not correct. Since the nature of transactions as well as amounts involved were material, it was noted that the Respondent's failure to report in respect of said discrepancies lead to material misstatement in the financial statements but disclosure of which was necessary. It was accordingly noted that the Respondent had failed to exercise due diligence while performing his professional duties and also failed to obtain sufficient information for expressing opinion in audit reports of the financial years concerned.

5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Items (5), (6), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as

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aforesaid, ordered that the name of the Respondent, **CA. ABPS Sastry (M.No.021662)** be removed from the Register of members for a period of 1(one) year along with a fine of Rs. 25,000/- (Rupees Twenty Five Thousand Only) be levied upon him that shall be payable within a period of 3 months from the date of receipt of the Order. In case the Respondent, failed to pay the same as stipulated, the name of the Respondent, **CA. ABPS Sastry (M.No.021662)**, be removed for a further period of 1(one) month from the Register of members on the lines of Section 64 of the Indian Penal Code.

Sd/-

[CA. Nihar N Jambusaria]
Presiding Officer

Sd/-

[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-

[Shri Ajay Mittal]
Member (Govt. Nominee)
[approved and confirmed through e-mail]

Sd/-

[CA. Chandrashekar Vasant Chitale]
Member
[approved and confirmed through e-mail]

Sd/-

[CA. P.K. Boob]
Member
[approved and confirmed through e-mail]

प्रमाणित सत्य प्रतिलिपि / Certified true copy
Mohita Khanna
सीए. मोहिता खन्ना / CA. Mohita Khanna
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ़ चार्टर्ड एकाउंटेंट्स ऑफ़ इंडिया
The Institute of Chartered Accountants of India
आइसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

DISCIPLINARY COMMITTEE BENCH – III (2020-2021)**[Constituted under Section 21B of the Chartered Accountants 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/308/15-DD/270/2015-DC/765/2018

In the matter of:
Mr. K.S. Kaushik,
Deputy Director,
Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
Govt. of India, 2nd Floor, Paryavaran Bhawn,
C.G.O. Complex, Lodhi Road,
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.....Complainant

Versus

CA. ABPS Sastry (M.No.021662),
M/s. ABPS Sastry & Co.,
Chartered Accountants,
Plot no.23, House No.1-4-174/23,
DLR Enclave, Sainikpuri,
Secunderabad - 500 094

.....Respondent

Members Present :

CA. Atul Kumar Gupta, Presiding Officer
Smt. Anita Kapur, Member, (Government Nominee)
CA. Chandrasekhar Vasant Chitale, Member
CA. Manu Agrawal, Member

Date of Final Hearing : 28th September, 2020
Place of Final Hearing : New Delhi (through Videoconferencing)

Party present :**Counsel for Complainant : Adv. V. Chandrasekaran****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 was held prima facie guilty under Items (5), (6) (7) & (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Clause to the Schedule state as under:-

Second schedule

Part I

*“(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;
 (6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;
 (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;
 (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;”*

Allegations made against the Respondent

2. The Respondent , being the statutory auditor of Paramount Agro Complex Limited (hereinafter referred to as the “**Company**”) during the financial years ending as on 31.03.2001 to 31.03.2006, had deliberately and willfully misstated the facts which he knew to have been reported falsely reported in the Balance Sheet of the Company for the said financial period(s) and thereby failed to report about falsified books of accounts of the Company and that they did not present the true and fair view of the affairs of the Company and also lacked with the statutory compliance of provision of law. The Complainant had alleged that the Respondent had failed to report in respect of the following:-

- i) That the during the Investigation, it was found that paid-up capital of the Company for the financial year 2000-01 was falsified as discussed in para 3.16 (C60-C66) of the Investigation Report.
- ii) that the value of land sold to M/s Chalapathi Estates Pvt Ltd was understated during the financial year 2005-06 and
- iii) that the advance given to the directors and unsecured loan taken from the directors of the Company during the financial year 2005-06 which one of the Director, Shri S. Ramesh Reddy in his statement before the Complainant Department, denied having given any loan to the Company.

Proceedings:

3. On the day of hearing i.e. 28th September, 2020, the Committee noted that the Counsel for the Complainant appeared before it from his personal location. Thereafter, he gave declaration that there was nobody present except him in the room from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. The Committee also noted e-mail dated 17th September, 2020 received from the Respondent wherein referring to his age and doctor’s advice, he requested the Committee that there was no further information that could be furnished by him, hence, the Committee might hold hearing in his absence and conclude the matter based on information already

available on record. The Committee considered the request of the Respondent and decided to proceed further in the matter.

The Committee asked the Counsel for the Complainant to make his submissions on the matter. The Committee examined the Counsel for the Complainant in the matter as well as considered the submissions received from both the parties.

Based on the documents/information as available on record and after considering the submissions made by both parties before it, the Committee concluded hearing in the matter.

Findings of the Committee:

4. As regard the first charge, alleged by the Complainant that the paid-up capital of the Company for the financial year 2000-01 was falsified which the Respondent, being the statutory auditor of the Company, failed to report. The Committee noted the submissions of the Respondent wherein he stated that the extant allegation had been made on account of the fact that the Complainant department failed to obtain the financial statements of the Company for the period 1994-35 to 1999-2000 from any of the parties viz the Company, the auditors or the ROC, Hyderabad. The Respondent in this regard submitted that the Company at the time of Incorporation had three Directors as per the Memorandum & Articles of Association of the Company namely Sri B. Manipal Reddy, Sri S. Ramesh Reddy and Sri R. Manohar Rao and that Sri B. Manipal Reddy had collected Certified Copies of the Balance Sheet, Annual Returns and Other Documents from ROC in the year 2003. This, as per him, indicated that the records were very much available with the Company. The Respondent further informed that in 2013, Sri B. Manipal Reddy had filed a case in Chennai with National Company Law Tribunal (NCLT) regarding their disputes and at that time he had filed with NCLT the financial statements and the annual returns of the Company from 1994-95 to 1999 – 2000 which was filed with ROC. So, he argued that there were contradictory stand on the part of Directors to misguide the Complainant Department. He further stated that as regard verification of the paid up capital for the alleged period, he had relied completely on the information, Books, etc. provided before him at the time of audit and from the Balance Sheets and Annual returns, it was evident that the paid capital was recorded as per the information contained in the signed Balance Sheets of the previous years.

5. At the outset, the Committee noted that the Respondent was the auditor of the Company from FY 1994-95 to 2005-06. Further, the Complainant Department reported major incongruities with respect to allotment made in 1995 and 1998 which lead to the alleged paid up capital irregularities. The said incongruities as discussed in para 3.16.2 of the Investigation Report is reproduced as below:-

“Detailed investigation into the transactions of allotment of fresh equity shares shown to have been allotted and recorded on 28.03.1995 and 30.03.1998 revealed the following major incongruities, which create a doubt about their veracity:

i. ...



ii. ...

iii. ...

iv. .

v. Attachment to the Form 2 for allotment shown to have been made on 28.03.1995 contains List of 7 allottees, to whom ten times the shares have been shown to have been allotted vis-à-vis the actual number.

vi. All the shares allotted have been recorded as shares allotted payable in cash, even though there is no record of any payments made by any of the allottees, including the promoters.

vii. The investors who had made payments to the Company and were treated as share applicants (which were converted to debts later on) were not allotted any shares despite the fact of receipt of their money in the bank account of the Company.

viii. Mr. B Manpal Reddy, the main promoter director at the material time, alleged that no approval of the Board of Directors was taken (in fact, no meeting of the board was ever held to even consider any such proposal) to make any equity share allotment.

ix. With regard to the payments for the said allotments, the allottees were questioned during the Investigation with the following results:

- a. In the Statement recorded on 12.1.2012 Shri Ramesh Reddy, Director (C222-C233) stated that he had invested only Rs. 1,90,000 in the Company whereas the value of equity shares allotted to him as per Balance Sheets was Rs. 2,13,630.
- b. Shri Manohar Rao, director in his statement recorded on 12.01.2012 (C237-C241) stated that he invested Rs. 2,50,000 in the company whereas the value of equity shares allotted to him was Rs. 2,13,630.
- c. Shri N. Srinivas, director in his statement recorded on 11.01.2012 (C247-C251) stated that he paid Rs. 50,000 in 1994, Rs. 40,000 in 2002 in cash and paid Rs.1,00,000/- for land development in 2003. As such his total investment against 28,469 equity shares allotted to him was only Rs. 1,90,000; whereas the value of the equity shares allotted to him were worth Rs. 2,84,690 as recorded in the Balance Sheets for 2000-01 and onwards
- d. Shri A. Mahesh, Director in his statement recorded on 10.01.2012 (C252-C259) stated that he paid a total sum of Rs. 3,00,000. When he was asked to intimate dates and time for making the payment, he replied that Rs. 30,000 and Rs. 1,00,000 in 1995 and Rs. 80,000 in 2002 and further Rs. 90,000 in June, 2004. Notes on accounts forming the part of Balance Sheet for the year ended 31st March, 2005 disclosed that a loan of Rs. 60,000 was raised from Shri A Mahesh,

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Director during the year 2004-05. As such his investment against equity holdings cannot be more than Rs. 2,40,000; whereas the value of his equity share holding was shown as Rs. 2,84,690.

- e. Shri B. Sudhakar Reddy, director in his statement recorded on 10.01.2012 (C260-C268) stated that he has not paid any money in consideration of allotment of 12490 equity shares in March 1995 and further 8861 equity share in March 1998. However, he further stated that he was working as accountant for company since 1995 and never received any consideration for his service from the Company. However the fact remains that Shri S. Sudhakar Reddy, Director was allotted 21,351 equity shares without receiving the cash consideration of Rs. 2,13,510.
- f. Shri T. Achary, Director in his statement recorded on 16.01.2012 (C270-C279) stated that he invested Rs. 50,000 and Rs. 1,50,000 during 1994-96 and paid the amount in cash to Shri S. Ramesh Reddy, director. The value of equity shares allotted to him as per Balance Sheet was Rs. 2,84,680”.

Thus the Committee noted that the Investigation Report also included non-approval of said allotment either by the Board or at AGM/EGM; Form 2 i.e. Return of the Allotment being filed with ROC after 12 years of allotment; non-availability of resolutions being referred in Form 2; discrepancies with respect to value of shares allotted viz-a-viz actual amount paid by various allottees as submitted by each of them over Oath with the Complainant department. The Committee in this regard noted the reply given by the main promoter director, Shri B Manipal Reddy while he was being investigated by the Complainant Department on the issue of allotment of fresh equity in 1995 and 1998. The relevant extracts of his statement dated 13.01.2012 (C-206 to C-221) are reproduced below:

“Q.No.9 You are being shown two Form 2 for allotment of shares made on 28.03.1995 and 30.03.1998. These returns were filed by Shri Ramesh Reddy, Director and Shri ABPS Shastri, Chartered Accountant in 2007. Since these allotments were made in the years when you were also a Director, please offer your comments?”

Ans. I have seen two Form-2 for allotment of shares on 28.03.1995 and 30.03.1998. I have put my dated signature on the two Form-2 in token of having seen and pursued the same. On being, asked to comment on these returns of allotment, I have to say that though these allotments have been purportedly made on 28.03.1995 and 30.03.1998 as per recording in those forms, I confirm that, **no, such allotments or any other allotment of equity shares was made from date of incorporation to November 2001.** Moreover, I further confirm that, the beneficiaries of allotment of shares have not invested any money in the Company. **In addition to this, these forms have no supporting resolution of the Board of directors at that time authenticating the fact of allotment of shares.** Further, the number of shares shown to have been allotted on 28.03.1995 far exceeds the authorized

capital of the Company. **All these facts taken together indicate the mala fide intentions of the directors and the auditors and confirm that these allotments were not genuine and were shown to have been created only to reduce my shareholding in the company. I further clarify that during said period only such persons, who have been listed as creditors in the listed provided by me had made the investment in the company, none else. This fact clearly contradicts the claim of the beneficiaries of allotment recorded in these returns.**

Further, I have to state that, neither any records nor books of accounts nor any Board Meeting of the Company were ever held. The Company is merely a paper entry and not run as enshrined under the Companies Act, 1956. The landed property of the Company is under my possession was acquired by personal efforts only. I have been personally liable for the loans given to the Company and have been following up recovery suits filed by various creditors and have also settled the company debts out of my personal funds."

4.1 The Committee further noted the conclusion as made out in the Investigation report of SFIO which is as under (C-65 to C-66):-

"3.16.5 From the foregoing discussion, it is quite apparent that the recorded allotment of equity shares to the new directors inducted on 11.10.2002, the existing promoter directors and one Shri G Mahender Reddy, was fraudulently allotted without any commensurate cash payment to the Company, thereby cheating the Company. By their misdemeanour as stated above, all the directors of the Company at the material time are the officers in default and need to be penalized as provided under law. It is pertinent to note that even though the events of allotment of equity shares have been shown to have occurred on 28.03.1995 and 30.03.1998, there is sufficient reason to believe that the same has not, in fact, taken place on the said dates, but only after the change in the management by inducting new directors. Moreover, the objective behind this equity share allotment seems to be to strengthen the control over the company by the new management. The new directors, in connivance with the other two promoter directors, have manipulated the situation to increase their shareholding (and, ultimately the control in management) in the company with practically no investment, because even the investment claimed by them is claimed to have been made in cash only. In absence of any Cash Book, or any other primary accounting record maintained by the company, it can't be conclusively said whether the allottees had actually made any contribution towards investment in the company, whatsoever."

6. The Committee noted that the Respondent was the auditor of the Company for the FY 1994-95 to 2005-06. Hence, he was associated with the Company during both the allotments in 1995 and 1998 which ultimately lead to alleged paid up capital irregularities. Though, the Respondent was pointing towards inability of SFIO to obtain related records and contradictory action/statements of the Directors as per his interpretation of the then prevailing circumstances, with respect to verification, he had only asserted to have verified the same based on annual returns, financial

statements of the previous period(s) and information as received from the management of the Company. The Committee further noted that the Respondent had neither brought any working papers nor any communication that had taken place between him and the management regarding any audit observation on the documents being audited. Thus, the Respondent failed to bring on record corroborative evidence to prove his bonafide. Hence, based on facts and circumstances as brought out in the preceding paras, the Committee is of the considered opinion that the Respondent not only failed to disclose material misstatements appearing in the Financial statements but also failed to exercise due diligence while performing his professional duties while failing to obtain sufficient information for expressing an opinion. Accordingly, the Respondent was guilty of professional misconduct within the meaning of Clauses (6),(7) and (8) of Part of Second Schedule to the Chartered Accountant Act, 1949 with respect to this allegation.

7. As regard the second charge alleged by the Complainant that the value of land sold to M/s Chalapathi Estates Pvt Ltd was understated in financial statement of 2005-06 which the Respondent had failed to report, the Committee noted the submissions of the Respondent. The Respondent submitted that the whenever there would be any sale or purchase of Land or Buildings, the values to be adopted in the books of account would only be as per the values stated in the Sale Deed registered before Sub Registrar of that region because that was the only proof available. The fact was that the Land was sold at Rs. 4,50,000/- as, the sale deed was registered at that value only which was signed by all the directors. The payment received over and above the sale consideration was by way of Jetropa sale realisation and this particular fact was also mentioned in the Directors Report of the period which was approved by the Board in their Board Meeting..

8. The Committee in this regard on perusal of Sale Deed of land (C174-C188), noted that the same was executed on 9th March, 2006 whereby the Company sold its 4.20 guntas land situated at Kadtal Revenue village in AmangalMandal, Mahaboob Nagar to Chalapathi Estates (P) Ltd. for a consideration of Rs.4.50 lac and the same was received by the Company on same day itself (C178). It was further declared in the Sale Deed that there were no mango / coconut trees/ betel gardens / orange grows or any such gardens, that there were no mines or such vegetables stones, there were no machinery, no fish ponds etc. in the land now being transferred. Hence, it was clear that no cultivation activities were carried out and no plant of Jatropa crops was there on land. Though there could be chance that Jatropa crops might have been harvested before sale of land but the said contention was not supported by the statement of Shri S. Ramesh Reddy, director who was one of the signatory directors of Balance Sheet, who confessed (C-230) that land was barren and no cultivation was done from the date of purchase till date. In addition to above, the Committee noted that the Respondent could not bring on record any documentary evidence such as sale bill, receipt given by Chalapathi Estates (P) Ltd.to demonstrate that Jatropa seeds were sold to Chalapathi Estates (P) Ltd. Hence, it was evident that there was no cultivation of Jatropa seeds on that land. Further, it

was noted that in recording the transactions substance of the transaction was required to be assessed by the Respondent being the auditor of the Company. In case, if the consideration received was in excess of that stated in the Sale Deed, it should have been recorded as such in the books of accounts rather than splitting the same under a head of revenue that did not exist. It was viewed that recognition of revenue under such head lead to mis-statement. Further it was also noted that the amount involved was material (30% of Source of funds), the Respondent was required to point out the same in his audit report which he failed to do so. Hence, based on facts and circumstances as brought out in the preceding paragraphs, the Committee is of the considered opinion that the Respondent had not only failed to report a material fact which was not disclosed in the financial statements but disclosure of which was necessary to make such financial statements not misleading thereby failing to exercise due diligence while performing his professional duties while also failing to obtain sufficient information for expressing an opinion. Accordingly, the Respondent was guilty of professional misconduct within the meaning of Clauses (5),(7) and (8) of Part of Second Schedule to the Chartered Accountant Act, 1949 with respect to this allegation.

9. As regard the third charge alleged by the Complainant related to advance given to the directors and unsecured loan taken from the directors of the Company during the financial year 2005-06, the Committee noted that the Director (Discipline) had in his prima Facie opinion had exonerated the Respondent for the first leg of this charge relating to advance given to the directors. Accordingly, the Committee enquired into the second leg of this allegation at the time of hearing, wherein it was alleged that unsecured loans were taken from the directors of the Company and the Respondent being the statutory auditor of the Company failed to qualify his report in this regard. The Committee also noted the submissions made by the Respondent whereby he had inter-alia stated in the financial statements there was sufficient disclosure of the same in the notes to accounts that the Company had received loans from the Directors. The Respondent, accordingly, submitted that he had not committed any professional misconduct in discharging his duties as a statutory auditor of the Company in certifying the loans given by the directors to the Company as his certification was based on the records produced before him and approved by all the directors.

10. The Committee as regard the third charge was not convinced with the allegation as being the Director, Sri S. Ramesh Reddy, was one of the signatory to the financial statement wherein the disclosure about loan being to the Directors was disclosed. However, the Respondent later on stated before the Complainant Department that no loan was given. It was viewed that the said statement was against his own action when he had certified those financials before they were presented before the Respondent to certify the same. Thus, the Respondent was held not guilty of the professional misconduct falling within the meaning of Clauses (5), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:

11. Thus, in conclusion in the considered opinion of the Committee, the Respondent is held **GUILTY** for allegations raised under charge no. 1 and 2 falling within meaning of Clauses (5),(6), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

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Sd/-
[CA. Atul Kumar Gupta]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member, (Govt. Nominee)

Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member
(approved & confirmed through e-mail)

Sd/-
[CA. Manu Agrawal]
Member
(approved & confirmed through e-mail)

Date: 3rd February, 2021

Place : New Delhi

Certified to be True Copy
Mohita Khanna
(Mohita Khanna)
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India.

