



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

DISCIPLINARY COMMITTEE [BENCH-I (2021-2022)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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.

In the matter of:

**Shri Ankur Goyal, Chief Operating Officer,
Vishal Pipes Limited, New Delhi**

-Vs-

**CA. Saikat Dutta (M.No.062248) of M/s. Saikat Dutta & Associates,
Chartered Accountants, Tirupura(West)
[PR/52/15/DD/58/2015-DC/781/2018]**

MEMBERS PRESENT (THROUGH VIDEO-CONFERENCING MODE):

CA. NIHAR N JAMBUSARIA, PRESIDING OFFICER

MS. RASHMI VERMA, I.A.S. (RETD.) (GOVERNMENT NOMINEE)

CA. ANUJ GOYAL, MEMBER (IN- PERSON AT ICAI, NEW DELHI)

CA. DURGESH KUMAR KABRA, MEMBER

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, the Disciplinary Committee was inter-alia of the opinion that **CA. Saikat Dutta (M.No.062248)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (9) of Part I and Clause (2) Part IV of the First Schedule and Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949.

2. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 23rd August, 2021.

3. The Committee noted that on 23rd August 2021, the Respondent was present at ICAI Kolkata Office and made his verbal representations before the Disciplinary Committee on



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the said findings. While concluding his submissions, he accepted his mistake and requested the Committee for taking a lenient view in his case.

4. The Committee has considered the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis verbal representations of the Respondent on the findings of the Disciplinary Committee.

5. Keeping in view the facts and circumstances of the case, material on record as well verbal representations of the Respondent accepting his guilt before it, the Committee is of the view that the professional misconduct on the part of the Respondent is established, The Committee hence was of considered view that ends of justice can be met if the Respondent is given reasonable punishment. Accordingly, the Committee orders **that the name of the Respondent i.e. CA. Saikat Dutta (M.No.062248), be removed for a period of 03 (Three) Months.**

Sd/-
(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

[approved and confirmed through e-mail]
(MS. RASHMI VERMA, I.A.S. (RETD.))
GOVERNMENT NOMINEE

[approved and confirmed through e-mail]
(CA. ANUJ GOYAL)
MEMBER

[approved and confirmed through e-mail]
(CA. DURGESH KUMAR KABRA)
MEMBER

18/ ✓
DATE : 26.10.2021

प्रमाणित सत्य प्रतिलिपि / Certified true copy
Anurag Sharma
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shaheed Park, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – I (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

Ref. No. PR/52/15-DD/58/15-DC/781/2018

In the matter of:

Shri Ankur Goyal
Chief Operating Officer
M/s Vishal Pipes Limited
32, Nishant Kunj, Kohat Enclave, Pitampura
NEW DELHI – 110 034

.....Complainant

Versus

CA. Saikat Datta (M.No.062248)
33, Office Lane (Near TNGCL)
AGARTALA (TRIPURA) – 799 001

.....Respondent

MEMBERS PRESENT (Through Video Conferencing):

CA. Nihar N Jambusaria, Presiding Officer,
Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee),
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee),
CA. G. Sekar, Member,
CA. Pramod Jain, Member

DATE OF FINAL HEARING : 18.11.2020

PLACE OF FINAL HEARING : Through Video Conferencing

PARTIES PRESENT (Through VC):

Complainant - Not Present

Respondent - CA. Saikat Datta

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. The Committee noted that on the day of hearing held on 18th November, 2020, the Complainant was not present. The Respondent was present. On being enquired from the Respondent as to whether he would like to have de-novo hearing or hearing from the stage as it was left in last hearing held on 07.11.2019, the Respondent opted for hearing in continuation to last hearing. Thereafter, the hearing commenced from the stage as it was left in last hearing. The Respondent made his submissions on the charges. The Committee also posed questions to the Respondent. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.

1.1. In respect of earlier hearing held on 07.11.2019, the Committee noted that the Complainant was not present. The Respondent was present. He was put on oath. On being enquired from the Respondent as to whether he is aware of the charges leveled against him, the Respondent replied in affirmative and pleaded not guilty to the same. He made his submissions. The Respondent stated that he does not have working papers. Keeping in view that hearing fixed on 7th November, 2019 was first hearing in the matter, the then Committee decided to adjourn the hearing to a later date.

CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-

2. The Committee noted that the Respondent was the auditor of M/s Tripur Polymers Pvt. Ltd (hereinafter referred to as the "Company") for the F.Y. 2012-13. The Company had submitted two different sets of balance sheets for the same financial year 2012-13 which were audited by two different Chartered accountant showing different financial results in order to get the tender from Public Works department, Resource Division, Panchmukh, Agratala, Tripura. It was also alleged that in view of two sets of financial statements available on record, the question arises whether the appointment made of the Respondent was in line with the applicable requirements of the Section 225 of the Company Act, 1956 and whether the requirement of Section 225 of the Companies in respect of appointment had been duly complied with.

3. In respect of charge relating to appointment and compliance of requirement of Section 225 of the Companies Act, 1956, the Respondent stated that at the time of his appointment, an assurance was given by the Company that appointment letter would be given to him. Based on assurance given by the Company, he audited the books of accounts of the Company but later on, no one turned up to give appointment letter to him. On being enquired from the Respondent as to whether Form 23B was filed by him with ROC for his appointment as auditor, the Respondent could not give any cogent reply.

3.1 In respect of above charge, the Committee noted that as per clause (9) of First Schedule to the Chartered Accountants Act, 1949, *A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he —*

(9) accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 225 of the Companies Act, 1956 9 1 of 1956] in respect of such appointment have been duly complied with;

The committee noted that Section 225 of the Companies Act, 1956 provides for provisions for appointment and removal of the auditor. As per requirement of clause (9) of the Chartered Accountants Act, 1949, an incoming auditor is required to ensure as to whether the requirements of Section 225 of the Companies Act, 1956 has been complied with or not. But in the extant matter, the Respondent failed to bring on record copy of appointment letter and copy of Form 23B for his appointment as auditor was not filed with ROC. Apart from above, the Respondent could not bring any documentary evidence to support that his appointment was made in accordance with the provisions of Section 224 and 225 of the Companies Act, 1956. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause (9) of Part I of First Schedule to the Chartered Accountants Act, 1949.

4. In respect of second allegation of signing second set of financial statement, the Respondent stated that he was not aware whether the Company was maintaining second set of book of accounts and he had conducted audit based on books of accounts and record produced before him. In respect of above charge, the Committee noted that the financial statement was signed by the Respondent on 25.06.2013 and another set of financial statement was signed by CA. D.P. Chakrabati on 02.09.2013. In the extant case, the

Respondent neither brought on record documentary evidence related to his appointment nor working papers related to his audit. Further, financial statement signed by the Respondent was not authenticated by the Directors as required in terms of the provisions of Section 215 of the Companies Act, 1956. In view of aforesaid facts, the possibility of backdating of the financials statement by the Respondent cannot be denied. Accordingly, the Committee is of the view that apart from being grossly negligent while performing his professional duties, the conduct of the Respondent has brought disrepute to the profession. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule and Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:-

5. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (9) of Part I and Clause (2) of Part IV of First of First Schedule and Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

sd/-

(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

[approved and confirmed through e-mail]

(SHRI JUGAL KISHORE MOHAPATRA,
I.A.S.(RETD.)), GOVERNMENT NOMINEE

[approved and confirmed through e-mail]

(MS. RASHMI VERMA, I.A.S. (RETD.))
GOVERNMENT NOMINEE


sd/-

(CA. G. SEKAR)
MEMBER,

sd/-

(CA. PRAMOD JAIN)
MEMBER

Certified to be true copy


Anurag Sharma
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032