



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 Atul Kumar Mishra, Jaipur

-Vs-

CA. Rajendra Nath Bhar (M.No.52197), Kolkata
[PR/154B/15/DD/165/15-DC/905/18]

MEMBERS PRESENT:

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. ANUJ GOYAL, 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 dated 03.02.2020, the Disciplinary Committee was inter-alia of the opinion that **CA. Rajendra Nath Bhar (M.No.52197)** (hereinafter referred to as the **Respondent**) was **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 the Second Schedule to the Chartered Accountant 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 communications were addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 19th April, 2021 and 26th June, 2021.



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3. The Committee noted that on 26th June, 2021, the Respondent was present through Video Conferencing mode and made his verbal representation on the said findings.
4. The Committee observed that the Respondent also made his written submissions on the findings of the Disciplinary Committee.
5. The Committee has considered the reasoning as contained in findings dated 3rd February, 2020 holding the Respondent Guilty of professional misconduct vis-à-vis verbal and written representations of the Respondent on the findings of the Disciplinary Committee.
6. Keeping in view the facts and circumstances of the case, material on record and representations of the Respondent made before it, the Committee is of the view that the professional misconduct on the part of the Respondent is established and ends of justice can be met if reasonable punishment is given to him. Accordingly, the Committee ordered that **the name of the Respondent, CA. Rajendra Nath Bhar (M.No.052197), be removed from the Register of members for a period of 6 (six) months.**

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

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

DATE : 26/10/2021

PLACE : DELHI


प्रमाणित सत्य प्रतिलिपि / Certified true copy

सी.ए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]

[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-154B/15-DD/165/2015/DC/905/18]

In the matter of:

**Shri Atul Kumar Mishra,
407, Geetanjali Tower,
Ajmer Road,
JAIPUR – 302 006**

.....Complainant

Versus

**CA. Rajendra Nath Bhar (M.No.052197)
115, College Street,
"White House",
4th Floor, Room No.4A,
Kolkata-700 012**

.....Respondent

MEMBERS PRESENT:

**Shri Jugal Kishore Mohapatra, I.A.S.(Retd.), Government Nominee & Presiding Officer
Ms. Rashmi Verma, I.A.S. (Retd.), Government Nominee,
CA. Babu Abraham Kallivayalil, Member
CA. Dayaniwas Sharma, Member**

DATE OF FINAL HEARING : 08.11.2019

PLACE OF FINAL HEARING : ICAI, Kolkata

PARTIES PRESENT:

**Respondent : CA. Rajendra Nath Bhar
Counsel for Respondent : CA. N. Halder**

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. On the day of hearing held on 8th November, 2019, the Committee noted that the Complainant was not present. The Respondent along with his Counsel was present. The notice of hearing was duly sent to the Complainant and the Respondent. Since there was no prior intimation from the Complainant about his absent and there was no request for adjournment of hearing, the Committee decided to proceed ahead with the proceedings ex-parte the Complainant. The Respondent 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. With the consent of the Respondent, the Committee decided to continue further in the matter. Thereafter, the Counsel for the Respondent made his submissions. The Committee also raised questions to the Respondent. After hearing the final submissions, the Committee decided to conclude the hearing.

CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-

2. It has been alleged that three audit reports were being prepared by three different Chartered Accountants on financial statements for the same financial year i.e. 2013-14 of the same date 24th August, 2014 for M/s RDG Interior Decoration Exterior Architecture Private Limited (hereinafter referred to as the "Company"). It was further alleged that the motive of preparing three audit reports from three Chartered Accountants was to reap undue advantage from various Government Departments through manipulation of the financial data.

3. The Respondent submitted that he was appointed to conduct tax audit u/s 44AB of the Income Tax Act, 1961 for the financial year 2013-14 of the Company (M/s. RDG Interior Decoration Exterior Architecture Pvt. Ltd). He duly conducted the tax audit on the basis of financial Statements of even year as certified by C.A. Shantimay Muzumdar. Since he was not maintaining a good health due to his old age, he took the help of the Client's office to upload the Tax Audit Report. The Respondent stated that he was not the statutory auditor of the Company. Hence his digital signature should not have been used by the client to upload Form 23AC, 23ACA & 20B at the ROC website.

3.1 During the course of hearing, the Counsel for the Respondent reiterated that the Respondent was not statutory auditor of the Company. The Respondent was tax auditor and he merely relied upon the financial statement certified by the statutory auditor of the

Company. Hence, allegation made by the Complainant is frivolous and baseless. As regard the question posed to the Respondent as to whom was the statutory auditor of the Company, the Respondent stated that CA. Shantimay Majumdar was the statutory auditor of the Company. The Respondent further stated that he did not remember the name of the previous statutory auditor. In respect of the role of CA. Tapan Kumar Saha, the Respondent stated that he had filed tax audit report for the previous years.

3.2 The Respondent stated that CA. Shantimay Majumdar had signed the financial statements. However, at the time of tax audit, only draft financial statements were made available to him for tax audit. Only for the financial year 2013-14, he was appointed as the tax auditor of the Company. When the Committee drew attention of the Respondent to Statutory Auditor report signed by him (C-53 & C-54) and posed a question that without being appointed as statutory auditor of the Company, how he can conduct statutory audit of the Company, the Respondent stated that due to oversight he signed the financial statement of the Company. On further enquiry, the Counsel for the Respondent stated that a bunch of papers were produced to the Respondent for signature and he signed the same without realizing that he has signed the financial statements. The Counsel for the Respondent stated that the Respondent is admitting that due to oversight he has signed the financial statement but there was no malafide intention on his part in signing the financial statements.

4. On perusal of the documents on record, it has been observed that it is a matter where the Company got its accounts certified from three different Chartered Accountants. First tax audit and statutory audit was conducted by CA. Tapan Kumar Saha. Thereafter, the Company appointed CA. Shantimay Majumdar and the Respondent to audit under the provisions of the Companies Act, 1956 and Income Tax Act, 1961 respectively. Thereafter, the Company filed copy of financial statement signed by the Respondent with ROC along with annual return of the Company. On perusal of the documents on record, the details of turnover certified in all the financial statements for financial year 2013-14 are as under:-

S. No.	Date of Income Tax Return	Turnover Income (Rs.)	Date of Auditor's Report	Audited by
1	No ITR was filed	56,35,88,943	24.08.2014	CA. Shantimay Majumdar (Proprietor) of M/s Shantimay Majumdar & Co., Kolkata. The copy of the financial

				statements audited by the aforesaid firm was submitted to SE (TW) JdVVNL, Jodhpur on 10.02.2015 to qualify the financial eligibility criteria as well as to the RoC Kolkata as on 26.03.2015.
2	30.11.2014	6,15,88,,943	24.08.2014	CA. Tapan Kumar Saha (Proprietor) M/s. T.K. Saha & Associates, Kolkata
3	06.04.2015	56,35,88,943	24.08.2014	CA. Rajendra Nath Bhar (Proprietor) C/o. R.N. Bhar & Associates, Kolkata

4.1 The details of various figures disclosed by the Company in Profit and Loss Account in all three sets are as under:

Particulars	Set signed by M/s. Shantimay Majumdar & Co. (FY 2013-14) (C66)	Original Set signed by CA. Tapan Kumar Saha (FY 2013-14) (C114)	Revised Set signed by the Respondent (FY 2013-14)(C59)
Income from Operation	56,28,70,300	6,08,70,300	56,28,70,300
Other Income	7,18,643	7,18,643	7,18,643
Total Income	56,35,88,943	6,15,88,943	56,35,88,943
Material Consumed	33,67,89,770	1,71,29,770	33,67,89,770
Changes in inventories of Finished Goods & WIP	2,02,30,878	2,02,30,878	2,02,30,878
Employee Benefit expenses	15,94,54,334	64,54,334	15,94,54,334
Finance Costs	45,85,863	45,85,863	45,85,863
Depreciation and Amortisation expenses	25,40,519	25,40,519	25,40,519
Other Expenses	3,78,03,386	84,63,386	3,78,03,386
Total Expenses	56,14,04,750	5,94,04,750	56,14,04,750
Profit / Loss before Tax Expenses	21,84,193	21,84,193	21,84,193
Tax Expenses			
-Current Tax	5,89,535	5,89,535	5,89,500 (Sic 5,89,535)
-Deferred Tax	85,380	85,380	85,400 (Sic 85,380)
Profit / Loss for the year	15,09,278	15,09,278	15,09,278

4.2 In respect of disciplinary case initiated against other two chartered accountants who have also signed the financial statements of the Company, the Committee noted that since CA.

Shantimay Majumdar (M.No.053264) expired, disciplinary case initiated against him became infructuous and CA. Tapan Kumar Saha (M.No.056755) was held not guilty by the Board of Discipline in the meeting held in March, 2018.

4.3 It is also noted that the Respondent certified Form '23AC' showing therein that he was Statutory Auditor of the Company for the financial year 2013-14. However, along with the said form, he enclosed the copy of the Balance Sheet as on 31st March, 2014 signed by M/s. Shantimay Majumdar & Co. on 24th August, 2014 under the Companies Act, 1956. On one hand, the Respondent had issued audit report under Form No. 3CB; on the other hand, he certified Form 23AC with information that books of the Company are audited under the provisions of the Companies Act, 1956 also by another auditor. The aforesaid acts clearly indicate that the Respondent was very well aware that the financial statements were audited by M/s. Shantimay Majumdar & Co. Hence, the Committee was not satisfied with the Respondent's submission that he has signed the financial statement in good faith and due to oversight. The Committee also noted that statutory auditor appointed under the Companies Act, 1956 was required to ensure that his appointment has been made in accordance with the provisions of the Companies Act, 1956 and he had made communication with the previous statutory auditors. But in the instant matter, the Respondent in spite of being aware of the fact that he has not been appointed to conduct statutory audit under the Companies Act, 1956, signed the financial statements and issued audit report on the books of accounts of the Company in gross violation of the provisions of the Companies Act, 1956. It is also relevant to mention here that turnover certified by the Respondent in the financial statement and revised income tax return (Rs.56 crores) differs materially when compared with the turnover as reflected in the Income Tax return (Rs.6.15 crore) for the financial year 2013-14 (Assessment year 2014-15) filed by CA. Tapan Kumar Saha. In this regard, there was nothing from the Respondent to justify the abnormal enhancement in the figures of turnover and other head of financial statements for the financial year 2013-14.

4.4 From the above, the Committee is of the view that the Respondent failed to mention in his tax audit report that he has issued second tax audit report and appears to have certified inflated figures of turnover and expenses in the income tax return and financial statement. Thus, the Committee decided to hold him guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

4.5 Further, the Committee is also of the view that the act of the Respondent in signing the financial statement without being appointed as statutory auditor brings disrepute to the profession of the Chartered Accountants. Accordingly, the Committee also decided to hold the Respondent Guilty of Other Misconduct falling within the meaning of Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

Conclusion:-

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

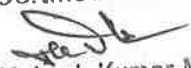
Sd/-
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S.(RETD.))
GOVERNMENT NOMINEE & PRESIDING OFFICER

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

Sd/-
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Sd/-
(CA. DAYANIWAS SHARMA)
MEMBER

DATE : 03rd February, 2020
PLACE : New Delhi

Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
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