



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 Debasish Bandyopadhyay, Registrar of Companies, Office of the Registrar of Companies, Ministry of Corporate Affairs, Kolkata

- Vs-

CA. Jayanta Bhattacharya ... (M. No.017916)
[PR-26/2014-DD/68/2014-DC/621/17]

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. Anuj Goyal, Member
CA. Durgesh Kumar Kabra, Member

1. That vide findings dated 15th October, 2019 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. Jayanta Bhattacharya (M.No.017916)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (7), (8) & (9) 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 dated 16th July, 2020, 17th August, 2020 and 7th April, 2021 were addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 30th July, 2020, 26th August, 2020 and 19th April, 2021 respectively.



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3. The Committee noted that on 19th April, 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 reiterated his submissions as made by him in writing on findings of the Disciplinary Committee.
5. The Committee has considered the reasoning as contained in findings dated 15th October, 2019 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. Jayanta Bhattacharya (M.No.017916), be removed from the Register of members for a period of 1 year (one year).**

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

(approved and confirmed through e-mail)
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (RETD.))
GOVERNMENT NOMINEE

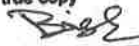
(approved and confirmed through e-mail)
(MS. RASHMI VERMA, I.A.S. (RETD.))
GOVERNMENT NOMINEE

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

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

DATE : 05.02.2022
PLACE : DELHI

सही प्रतिलिपि होने के लिए प्रमाणित/
Certified to be true copy


बिष्व नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
उत्कृष्टता, अथवा, विनाश

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH-III (2019-20)]

[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-26/2014-DD/68/2014-DC/621/17

In the matter of:

Shri Debasish Bandyopadhyay
Registrar of Companies, West Bengal
Office of the Registrar of Companies
Ministry of Corporate Affairs
"Nizam Place", II MSO Buildings, IIInd Floor
234/4, A.J.C. Bose Road
Kolkata-700 020

.....Complainant

Versus

CA. Jayanta Bhattacharya ... (M. No.017916)
533, Block "O"
New Alipore
Kolkata-700 053

.....Respondent

Members Present:

CA. Prafulla Premsukh Chhajed, President
Smt. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)
CA. Debashis Mitra, Member
CA. Manu Agrawal, Member

Date of Final Hearing: 15th July 2019 (decided on 23rd September 2019)
Place of Final Hearing: Kolkata

Parties Present:

Ms. Ishani Pandya, Assistant ROC – Complainant's representative
CA. Jayanta Bhattacharya – Respondent

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Allegations of the Complainant:

1. Shri Debasish Bandyopadhyay, Registrar of Companies, West Bengal, Office of the Registrar of Companies, Ministry of Corporate Affairs, Kolkata (hereinafter referred to as the "Complainant") has filed complaint in Form '1' dated 24th January, 2014 (C-1 to C-145) against CA. Jayanta Bhattacharya (M. No.017916), Kolkata (hereinafter referred to as the "Respondent"). The Complainant in his complaint had alleged as under:-

- 1.1 **Allegation no 1:** It was observed during the course of inspection that the M/s Pricewaterhouse Coopers Pvt. Ltd. (hereinafter referred to as the "Company") had received grant (support) amount of US \$ 39,30,000/- (INR 17,42,95,500/-) and US \$ 1,80,00,000/- (INR 79,88,60,000/-) in the Financial Year 31st March, 2011 and 31st March, 2012 which were shown in the Financial Year 31st March, 2010 and 31st March, 2011 on accrual basis, but nothing had been shown or reflected in the Profit & Loss Account by the Company as to how the amount of grant as per agreement has been earned and/or spent and hence the Profit & Loss Account and Balance Sheet could not be stated as true and fair.
- 1.2 **Allegation no 2:** The disclosure as required for related party transactions during the Financial Year 31st March, 2009 to 31st March, 2011 had not been made with regard to the related party transactions made with M/s Pricewater house Coopers Services Delivery Centre (Kolkata) Private Limited for providing services of Rs.120,32,56,658/- during the period from 1.7.2010 to 31.3.2012 and for receiving services of Rs.1,50,33,765/- during the period from 1.4.2011 to 31.3.2012. Thus it was alleged that the Respondent had failed to qualify his audit report for non-compliance of Accounting Standard-18 which led to violation of Section 227(3)(d) relating to Section 211(3A) of the Act.

Proceedings:

2. At the outset on 15th July 2019, the Committee noted that the representative of the Complainant department and the Respondent along with his Counsel were present in person to appear before the Committee. Since it was the first hearing in the matter, the Respondent was put on oath. Thereafter, the Committee asked the Respondent

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whether he wished the charges to be read out or these could be taken as read. The Respondent stated that he was aware of the allegations raised against him and the same could be taken as read. On being asked, as to whether he pleaded guilty, he replied that he did not plead guilty and opted to defend his case. Thereafter, the Counsel for Respondent submitted his submission to defend the case. The Committee thereafter examined the Respondent in the matter and the Respondent made his further submissions in the matter.

After hearing from the Respondent, the Committee directed the parties to file the following documents within 30 days of the hearing:

To the Respondent

To provide copy of agreement vide which the said income was received and other submissions alongwith evidence thereof to support the same

To the Complainant

To provide information as to the action taken by the Complainant against the Company

Accordingly, the matter was heard and it was decided that the further course would be decided based on the information received through the documents sought in the aforesaid directions.

3. On 23rd September, 2019, the Committee noted that the document sought from the Respondent was submitted by him vide his letter dated 9th August 2019. However, the Complainant department did not provide any information despite the same being explicitly sought by the Committee. The Committee noted that due opportunity was given to the Complainant department which it failed to avail. Accordingly, the Committee decided to conclude the matter based on written and oral submissions of the Complainant and the Respondent as well as the documents available on record. The Committee, accordingly, decided to take its decision on the matter.

Findings of the Committee:

4. The Committee noted that although the Director (Discipline) while forming his prima facie opinion under Rule (9) of the CA Rules 2007, in the extant case, had held the

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Respondent prima facie not guilty w.r.t both the charges alleged against him but the Board of Discipline (hereinafter referred to as 'the Board') on consideration of the same did not concur with the said opinion of the Director (Discipline). The Board was of the view that the Respondent who audited the books of accounts of M/s Pricewaterhouse Coopers Pvt. Ltd. had failed to verify the nature of amount received in foreign currency and also failed to give appropriate disclosures. As regard the allegation relating to disclosure made in the Financial Statements regarding related party (M/s Price water house Coopers Services Delivery Centre (Kolkata) Private Limited), the Board was of the view that further enquiry was required to deal with the said issue. The Committee, accordingly, heard the matter and its findings are detailed in the following paragraphs.

5. The Committee noted that as regard the first allegation, the Complainant had alleged that during the course of inspection, it was revealed that the Company had received grants (support) amount of US \$ 39,30,000/- (INR 17,42,95,500/-) and US \$ 1,80,00,000/- (INR 79,88,60,000/-) during the Financial Years 31st March, 2011 and 31st March, 2012 which were recognized in Financial Years 31st March, 2010 and 31st March, 2011 on accrual basis, but nothing had been shown or reflected in the Profit & Loss Account as to how the amount of grants as per agreement had been earned and/or spent and thus the Profit & Loss Account and Balance Sheet could not be stated as true and fair.

5. The Committee noted that the Respondent in his Written Statement had submitted that the Company was a member of of the PricewaterhouseCoopers global network of firms (Pwc Network). As per him, pursuant to the policy of assisting in maintaining the network quality standards and methodologies of all member firms of the PwC Network, Pricewaterhouse Coopers Services BV, the Netherlands (hereinafter referred to as "**Services BV**"), provided to the Company at its request grants of non-refundable nature under the contractual agreements existing between services BV and the Company. The grant so received was not considered to be something special or extraordinary keeping in view the defined role of the payer in the PwC Network and

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was disbursed for furtherance of business and as per the Respondent practically there was no condition attached except for defining the heads off expenditure against which the sums were provided.

6. The Respondent further stated that as per books and records of the Company examined by him and information and explanations received during the course of his audit on accounts of the Company for the FY 2009-10 and thereafter, these grants were received by the Company from **Services BV** on June 28, 2010 through normal banking channels. The Company raised its bill dated 31.03.2010 on Services BV seeking grant of USD 39,30,000 (INR 17,42,95,500/-), on accrual basis, under the contractual arrangements existing between Services BV and the Company. As regard the other figure of US \$1,80,00,000/- (inr 79,88,60,000/-) for grants mentioned in the complaint, he stated that as per books and records examined by him, the same was the sum total of the bills raised by the Company on 31st March 2011 on Services BV for the said non-refundable grants to be received in terms of the contractual agreement dated 16th March 2011. He also submitted that as per the accounting practice followed by the Company, the grant amounts were accounted for as Sundry Income on an accrual basis with corresponding debit to Accrued Income in accordance with the Generally Accepted Accounting Principles in India. He also submitted that Accounting Standards or Companies Act 1956 or any other regulation did not lay any specification to provide information in the financial statements on the gross amount of grants received, the expenditure incurred and the net surplus or the shortfall.

7. The Committee in this regard noted that the Respondent vide his letter dated 9th August 2019 had submitted on record a copy of the grant agreement dated 16th March 2011 entered between the Company and the Price waterhouse Coopers Services BV, the Netherlands which according to the Respondent covered the amounts received by the Company under the said agreement for the F.Y. 2009-10 and 2010-11. On perusal of the said agreement, it was noted that the agreement produced on record by the Respondent was dated March 16, 2011. It was noted that the said funds were received

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during financial year 2009 -10 and it was shown as income during the said period because as per the Respondent it was a non- refundable grant received from the party to maintain standards and quality. It was viewed that in the absence of such agreement as in March 2010, the basis of verification of receipt or its purpose or that such funds were in the nature of grants for the Company could not be comprehended because the date of audit was much prior to the date of agreement. It was also noted that Clause 2 explicitly state that utilization of such funds were subject to terms and conditions and that it was required to be utilized till 2014. Hence, concluding that such funds were non-refundable or that the conditions attached to the agreement were fulfilled was not acceptable. It was accordingly viewed that the Respondent had not only failed to elaborate upon the audit procedures he had adopted to verify the nature of grants but also failed to bring on record the documents /working papers based on which he had arrived at such an opinion during the course of his audit that the terms and conditions attached to such grants were duly fulfilled and the grants had correctly accrued and accounted for by the Company.

8. The Committee accordingly viewed that although the amount of US \$ 39,30,000/- (INR 17,42,95,500/-) and US \$ 1,80,00,000/- (INR 79,88,60,000/-) were received in the Financial Years 31st March, 2011 and 31st March, 2012 respectively and the agreement in pursuance to which the said amounts were received by the Company was entered on. 16th March 2011, it was shown as income much earlier in the Financial Years 31st March, 2010 and 31st March, 2011. In the absence of any explanation as to the basis of verification of such income, which actually did not exist for financial year 2009-10, the Committee was of the opinion that the Respondent had failed to exercise due diligence and was grossly negligent in conduct of his professional duties. He had also failed to obtain sufficient information which was necessary for expressing opinion on the Financial Statements of the Company.

9. The Committee noted that as regard the second allegation, the Complainant had alleged that the disclosure for related party transactions had not been made with regard to the related party transactions entered into with M/s Pricewater house

Coopers Services Delivery Centre (Kolkata) Private Limited for providing services of Rs.120,32,56,658/- during the period from 1.7.2010 to 31.3.2012 and for receiving services of Rs.1,50,33,765/- during the period from 1.4.2011 to 31.3.2012 and thus, the Respondent had failed to qualify his report as regard the failure to comply with the provisions of Accounting Standard-18 read with Section 211(3A) of the Act.

10. The Committee noted that the Respondent in his Written Statement has submitted that PricewaterhouseCoopers Service Delivery Center (Kolkata) Private Limited was identified as a "related party" in Financial Statements for financial years ended 31st March 2011 and 31st March 2012, and the particulars of transactions and other information as required to be given for related parties were also provided by the Company in respect of PricewaterhouseCoopers Service Delivery Center (Kolkata) Private Limited under "Associates" in para x of schedule 16 forming part of the financial statements for the F.Y.s 2010-11 and 2011-12 covering the aforementioned period from 01.07.2010 to 31.03.2012. The Company had thus complied with the requirements under Section 211 (3A) read with Accounting Standard 18.

11. In this regard, the Committee noted that although M/s Pricewaterhouse Coopers Services Delivery Centre (Kolkata) Private Limited was disclosed to be a related party in financial statements of the Company for the F.Y. 2010-11 (C-61 to C-62) and 2011-12 (C-129), but there was difference in the figures reported by the Complainant vis-à-vis those disclosed in the financial statements. According to disclosure made in the financial statements (C-122 and C-129), the Company had received services amounting to Rs. 138 lacs and had rendered services amounting to Rs. 10923 lacs (Rs. 5,561 lacs + Rs. 5,362 lacs) to M/s Pricewater house Coopers Services Delivery Centre (Kolkata) Private Limited. However as per the Complainant, the said figures in respect of receiving services was of Rs.150 lacs and for rendering services was Rs.12033 lacs (C-1) and thus there was difference of Rs. 12 lacs in respect of receiving services and Rs. 1110 lacs in respect of rendering services.

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12. It was noted that that Para 21, 23, 26 and 27 of AS 18 on 'Related Party Disclosures' states the following disclosures are required in respect of related party transaction :

"21. Name of the related party and nature of the related party relationship where control exists should be disclosed irrespective of whether or not there have been transactions between the related parties.

23. If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following:

(i) the name of the transacting related party;

(ii) a description of the relationship between the parties;

(iii) a description of the nature of transactions;

(iv) volume of the transactions either as an amount or as an appropriate proportion;

(v) any other elements of the related party transactions necessary for an understanding of the financial statements;

(vi) the amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and

(vii) amounts written off or written back in the period in respect of debts due from or to related parties."

26. Items of a similar nature may be disclosed in aggregate by type of related party except when separate disclosure is necessary for an understanding of the effects of related party transactions on the financial statements of the reporting enterprise.

27. Disclosure of details of particular transactions with individual related parties would frequently be too voluminous to be easily understood. Accordingly, items of a similar nature may be disclosed in aggregate by type of related party. However, this is not done in such a way as to obscure the importance of significant transactions. Hence, purchases or sales of goods are not aggregated with purchases or sales of fixed assets. Nor a material related party transaction with an individual party is clubbed in an aggregated disclosure (emphasis added).

13. However, on perusal of the information disclosed by the Company relating to related party transactions in financial statements for the F.Y. 2010-11 (C-61 to C-62) it was evident that the party-wise details as mandated in the A.S.18 had not been disclosed by the Company which the Respondent being the statutory auditor failed to qualify. It was noted that such grants received were of material amounts and the same was disclosed under the broad head 'associates' instead of explicitly stating the name of single party with which such transaction took place. As regards the difference in

figures, the Respondent has argued that difference in reported figures must have arisen for service tax which was not recognized being recoverable by the firm. However, considering the amount of taxes recognized by the firm in respective financial year especially with respect to financial year 2011-12, such contention of the Respondent was not acceptable. Accordingly, in light of the fact that there was a difference in the actual amount of services received/rendered vis a vis that reported in the Financial statements together with the fact that the disclosure as regard the related party transactions were not given, it was viewed that the Respondent had failed to exercise due diligence and was grossly negligent in conduct of his professional duties. Further, he failed to obtain sufficient information which was necessary for expressing opinion on the Financial Statements of the Company and he also failed to invite attention to the material departure from generally accepted procedure of audit.

Conclusion:

14. Thus, in conclusion, in the opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning of Clauses (7) and (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
CA. Prafulla Premsukh Chhajed,
Presiding Officer

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

Sd/-
Shri Ajay Mittal, IAS (Retd.)
Member (Govt. Nominee)

Sd/-
CA. Debashis Mitra
Member

Sd/-
CA. Manu Agrawal
Member

Date : 15th October, 2019
Place : New Delhi

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