

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2021-2022)]**

**[Constituted under Section 21B of the Chartered Accountants Act, 1949]**

**Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No. : [PPR/P/60/16-DD/100/INF/16-DC/1251/19]**

**In the matter of:**

**CA. PUROHIT NITIN SUDHAKAR (M.No.040951) of  
M/S N.S. Purohit & Co.,  
Shivaji Chowk, Deorukh,  
Taluka Sangameshwar,  
RATNAGIRI – 415804**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. (Dr.) Debashis Mitra, Presiding Officer (Through VC)  
Shri Rajeev Kher, Govt. Nominee (Through VC)  
CA. Amarjit Chopra, Govt. Nominee (Through VC)**

**DATE OF FINAL HEARING : 27.12.2021 (Through Video Conferencing)**

**PARTIES PRESENT**

**Respondent : CA. Purohit Nitin Sudhakar  
Counsel for Respondent : CA. Shashikant V Barve**

**CHARGES IN BRIEF:-**


1. The Committee noted that the Respondent in the present case was held Prima-facie Guilty by Director (Discipline) of Professional and/or other Misconduct falling within meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on the charge that he had signed multiple sets of final accounts in respect of M/s Varron Industries Private Limited and M/s Varron Aluminium Private Limited (hereinafter referred to as "VIPL" and "VAPL" respectively).

**BRIEF FACTS OF THE PROCEEDINGS:**

2. On the day of the final hearing on 27<sup>th</sup> December 2021, the Committee noted that the Respondent was present before it through Video Conferencing mode along with his counsel CA. Shashikant V Barve. Thereafter the Respondent made detailed submissions in his defence. After considering all papers available on record and after detailed deliberations and recording the submissions, the Committee decided to conclude the matter.

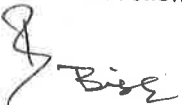
**FINDINGS OF THE COMMITTEE**

3. The Committee noted that the Respondent Counsel had raised two reasons in respect of technical error in dealing with the Information. Firstly, the Counsel stated that the complaint was filed on 06/06/2016 and it was sent to the Respondent on 9th September 2016 which is after 3 months from the date of the Information whereas as per the Rule 8(1) of The Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Director (Discipline) has to send the information within 60 days i.e. maximum within 2 months to the Respondent while here it is 3 months. Accordingly, he submitted that there is a clear violation of Rule 8(1) of above Rules.
  - 3.1 The Committee in this regard was of view that present case is treated as "Information" not Complaint and is governed by the Rule 7 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Hence, in view of the Committee, defence taken by the Counsel regarding Rule 8(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 is not tenable.
4. The Counsel in respect of second technical error stated that under Rule 18(6) of above rules, the Disciplinary Committee has to hold the hearing within 45 days from the date of formation of prima-facie opinion, the prima-facie opinion is dated 18/11/2017 and hearing is held after 27 months which is a clear-cut violation of Rule 8(1) and 18(6) of the Chartered Accountants (Procedure of

  
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Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

- 4.1 The Committee as regards to Rule 18(6) is of view that the said provision is a directory and not mandatory. This is also obvious from the fact that it cannot be the mandate of law that merely because the hearing was not scheduled within 45 days, the delinquent Chartered Accountant would stand absolved. The provisions of Rule 18(6) cannot be considered as mandatory for two reasons- firstly use of the word "shall not ordinarily be later than" implies that in exceptional circumstances it can be fixed even beyond 45 days; and secondly the intention to provide a time frame to fix the hearing is to expedite the hearing of such matters and avoid unnecessary delays and no penal consequences had been prescribed if the hearing is not fixed in the prescribed time. Accordingly, the Committee was of view that the provision must be construed as a directory only.
5. The Committee noted that in present case two sets of Financial statements are coming on record. One set is submitted by the Informant and other set is uploaded on websites of ROC and Income Tax department.
6. The Counsel of the Respondent submitted that his client had signed only one set of financial accounts and the same was duly uploaded on the ROC website and that also have been uploaded in the Income Tax Website. The Counsel of the Respondent further submitted that uploading of documents on websites took place after the resignation by the Respondent.
- 6.1 The Committee on perusal of forms uploaded on ROC noted that the same were filed by Company Secretary and not by the Respondent and there was no involvement of the Respondent in uploading of alleged financial statements.
- 6.2 The Committee also noted that the Respondent had communicated with the said Company Secretary and the latter with his letter also submitted copies of financial statements provided by the Company to him for uploading.



6.3 The Committee noted that the Respondent had placed on record search report of two Independent Company Secretaries who checked the documents for FY 2010-11 uploaded on the ROC website. The Committee on perusal of their report noted that the financial statements uploaded on website were same as claimed to have been signed by the Respondent.

7. As regards alleged set produced by the Informant, the Counsel for the Respondent submitted that the photocopies of financial statements available with the Informant have not been uploaded on ROC Website and Income Tax Website. He further stated that there were major differences in the copies of financial statement which has been submitted by the Informant as under:
- a. The financial statement submitted by the Informant is horizontal format whereas the Respondent only uses vertical format for financial statement.
  - b. No previous year figures are appearing in set provided by the Informant.
  - c. The signatures of Directors are different on both financial statements.
  - d. Company seal is put on audit report.

7.1 The Committee noted that the Counsel for the Respondent brought on record letter dated 13<sup>th</sup> August 2020 and letter dated 27<sup>th</sup> August 2020 under RTI submitted by the Respondent to Income Tax Department wherein apart from requesting various documents he also requested for allowing him to inspect original copies of alleged financial statements. The Committee noted that the RTI application of the Respondent was denied by the Income Tax Department on ground that the DGIT (Investigation) is exempt under purview of RTI Act.

7.2 The Committee also noted that the Respondent also took opinion from Handwriting expert for verification of his signatures on alleged financial statements. The Committee noted that the Handwriting expert vide opinion dated 8<sup>th</sup> January, 2021 opined that physical signatures on the photocopies do not match with the signatures of the Respondent.



- 7.3 The Committee hence opined that the Respondent took necessary steps to safeguard his role in signing of alleged financial statements.
8. The Committee also noted that during survey by Informant department the same copies were found in Respondent office which have been uploaded on ROC and Income tax website.
9. Accordingly, the Committee was convinced with the submissions of the Respondent and was of the view that there is no concrete evidence to establish that the Respondent had signed more than one set.

**CONCLUSION**

10. In view of the above findings stated in above paras the Committee in its considered opinion hold the Respondent is **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with section 22 of the Act.
11. The Committee, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, passed order for closure of this case against the Respondent.

sd/-

(CA. (Dr.) DEBASHIS MITRA)  
PRESIDING OFFICER

sd/-

(SHRI RAJEEV KHER, IAS RETD.)  
GOVERNMENT NOMINEE

sd/-

(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

DATE: 10<sup>TH</sup> FEBRUARY, 2022

PLACE: NEW DELHI

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

बिष्वा नाथ तिवारी / Bishwa Nath Tiwari  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक विभाग / Disciplinary Directorate  
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