



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

[PR/138/17-DD/190/17-DC/1146/19]

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.

[PR/138/17-DD/190/17-DC/1146/19]

In the matter of:

Shri Ajit Singh Mehra,
Chief Manager, State Bank of India,
103, Abhishree Complex,
Opposite Star Bazar, Satellite Road,
AHMEDABAD - 380015

.... Complainant

-Vs-

CA. Deepak Dinesh Agrawal, (M. No. 137053)
Partner, M/s Deepak Agrawal & Co., (FRN 134263W)
E-1, Suprabhat Apartment,
Near Gulab Tower,
Cambav Grand Road, Thaltej,
AHMEDABAD- 380054

..... Respondent

MEMBERS PRESENT:

- 1. CA. (Dr.) Debashis Mitra, Presiding Officer (Present in person)**
- 2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)**
- 3. CA. Rajendra Kumar P, Member (Present through Video Conferencing)**
- 4. CA. Cotha S Srinivas, Member (Present in person)**

DATE OF MEETING : 25.04.2022 (Through Physical/ Video Conferencing Mode)

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 10.02.2022, the Disciplinary Committee was inter-alia of the opinion that **CA. Deepak Dinesh Agrawal, (M. No. 137053)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountant Act, 1949.

2. The Committee noted that the Respondent was present through video conferencing mode. The Respondent submitted that he had already submitted his written representation on 25th February



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2022 and had exercised due care while performing his professional work and abiding by the law and ethics prescribed by the ICAI.

3. The Committee noted that in the present case the Respondent had certified paid capital of the Company (i.e. M/s Harikrushna Infraprojects Private Limited) as on 7th December 2013 is Rs. 500 Lacs including share application money pending allotment, whereas the authorized capital of the Company as on 31st March, 2014 was Rs. 1.00 lakhs only.

4. The Committee noted that the language of the certificate issued by the Respondent was clearly misleading as the Respondent had merged the amount of share application money with paid up share capital. The Committee noted that the language of the certificate indicates that the paid-up share capital of the Company is Rs.500 lakhs, which would mislead users of the certificate. The Committee while looking into the matter is of the opinion that the Respondent failed to check the factual accuracy of the certificate before issuing the same. The Committee noted that the Respondent had taken the same as part of paid-up capital without ensuring that necessary resolutions in this regard were duly passed by the Company and the requisite forms were duly uploaded by the Company on MCA.

5. Accordingly, the Committee viewed that ends of justice can be met if reasonable punishment is given to the Respondent to commensurate with his above professional misconduct.

6. Therefore, keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent before it, the Committee ordered that the name of the Respondent - CA. Deepak Dinesh Agrawal, (M. No. 137053) be removed from the Register of members for a period of 01 (One) Month.

Sd/-

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

Sd/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

Date: 01.06.2022

Place: New Delhi

Sd/-

(CA. COTHA S SRINIVAS)
MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित /
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विभागाध्यक्ष / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासननायक विदेशालय / Disciplinary Directorate
इंस्टिट्यूट 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

Shri Ajit Singh Mehra, Chief Manager, State Bank of India, Ahmedabad -Vs- CA. Deepak Dinesh Agrawal (M.No.137053) of M/s. Deepak Agrawal & Co. Chartered Accountants, Ahmedabad

CONFIDENTIAL

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

[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/138/17-DD/190/17-DC/1146/19]

In the matter of:

**Shri Ajit Singh Mehra,
Chief Manager, State Bank of India,
103, Abhishree Complex,
Opposite Star Bazar, Satellite Road,
AHMEDABAD - 380015**

.....Complainant

Versus

**CA. Deepak Dinesh Agrawal, (M. No. 137053)
Partner, M/s Deepak Agrawal & Co., (FRN 134263W)
E-1, Suprabhat Apartment,
Near Gulab Tower,
Cambav Grand Road, Thaltej,
AHMEDABAD- 380054**

..... 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 :

Counsel for Respondent : Mr. Deepak Shah, Advocate

CHARGES IN BRIEF:-

1. The Committee noted that in the present case the Director (Discipline) had held the Respondent Prima-facie Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on the charge that he has issued certificate dated 07.12.2013 (**page C-5 of Prima facie Opinion**) wherein he has certified that paid up equity share capital of M/s Harikrushna Infraprojects Private Limited (hereinafter referred to as the "**Company**") on 07.12.2013 was 500.00 lacs including share application money received but pending for the allotment whereas paid up share capital and authorised capital of the Company as per audited balance sheet for the year ending 31.03.2014 and ROC Search records dated 25.11.2015 was Rs. 1.00 lacs only. It is further alleged that the certificate is not supported by any evidence.

BRIEF FACTS OF THE PROCEEDINGS:

2. On the day of the final hearing held on 27th December 2021, the Committee noted that the Complainant was not present. The Respondent alongwith his Counsel Mr. Deepak Shah, Advocate was present through Video Conferencing mode. Thereafter, the Respondent's Counsel 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 Counsel for the Respondent with regards to charge against him submits that the Respondent had not audited the books of the Company for the Year ending 31st March, 2014. He further submitted that the

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Respondent had issued only a certificate showing the amount of share capital and application money received by the company till the date of certificate.

- 3.1 The Counsel further mentioned that since the shares were not issued, hence the amount has been converted into unsecured loans from the Directors and relatives amounting to Rs. 11.09 Crore (Note '3' on C-16 of prima-facie opinion).
- 3.2 The Counsel further submitted that the Respondent had done his duties diligently as he had verified all the necessary documents such as resolution for increasing the authorized share capital and the Board resolution dated 7.12.2013 (W-7). He also mentioned that the bank statement in this regard is also submitted by the Respondent.

4. The Committee noted that the Respondent in his certificate dated 07.12.2013 had certified as under:

"This is to certify that we have verified the relevant documents of M/S HARIKRUSHNA INFRAPROJECTS PRIVATE LIMITED Registered at 27, ARIHANT BUNGLOWS, GALA GYMKHANA ROAD, B/H SUNCITY, BHOPAL, AHMEDABAD-380058 and do certify that the paid up equity capital of the Company as at 7th December, 2013 is Rs. 500.00 Lacs including share application money but pending allotment.

The above certificate issued on the basis of verification of documents and explanation provided to us."

- 4.1 The Committee noted that language of the certificate is clearly misleading as the Respondent had merged the amount of share application money in paid up share capital. The Committee noted that the language of the certificate indicates that paid up share capital of the Company is Rs.500 lakhs which would mislead users of the certificate.

- 4.2 The Committee further noted that Para 2.2 of Guidance Note on Audit Reports and Certificates for Special Purposes provides as under:

“.....when a reporting auditor issues a certificate, he is responsible for the factual accuracy of what is stated therein. On the other hand, when a reporting auditor gives a report, he is responsible for ensuring that the report is based on factual data, that his opinion is in due accordance with facts, and that it is arrived at by the application of due care and skill.”

- 4.3 Hence, the Respondent was required to check the factual accuracy of the certificate before issuing the same. The Company noted that in present case the authorised capital of the Company was only 1.00 lakhs and hence Rs. 499 Lakhs were share application money. The Respondent had taken the same as part of paid capital without ensuring that necessary resolutions in this regard were passed and requisite forms were uploaded by the Company on MCA.
5. Accordingly, the Committee found no merits in defence of the Respondent and hold the Respondent guilty for not exercising due diligence.

CONCLUSION

6. In view of the above findings the Committee in its considered opinion hold the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

sd/-

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


sd/-

(SHRI RAJEEV KHER, IAS RETD.)
GOVERNMENT NOMINEE

approved & confirmed through email
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

DATE: 10TH FEBRUARY, 2022
PLACE: NEW DELHI

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बिष्णु नाथ तिवारी / Bishwan Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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