



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

[PR/241/2019/DD-234/2019/DC/1419/2021]

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.

File No.: PR/241/2019/DD-234/2019/DC/1419/2021

In the matter of:

CA. Venkata Subramanian

A-23, Almond Tree,
Near Kanchenahalli Railway Gate
Off Doddaballapur Road
Yelahanka
Bangalore - 560064

.....Complainant

Versus

CA. Sunil Kumar C. (M. No. 209510)

H.No.49, 7th Cross
Patel Pillegowda Layout,
Ramachandrapura
Jalahalli P.O.
Bangalore - 560013

.....Respondent

Members present:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri P.K. Srivastava, Member (Govt. Nominee)
CA. Vishal Doshi, Member
CA. Sushil Kumar Goyal, Member

Date of Hearing: 08.04.2022 through Video Conferencing

Place of Hearing: New Delhi

Party Present:

(i) CA. Sunil Kumar C. – Respondent (appeared from his personal location)

1. That vide report dated 17th December 2021 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. Sunil Kumar C. (M. No. 209510)** was **GUILTY** of professional misconduct falling within the meaning of Items (6) and (7) of Part-I of the Second Schedule to Chartered Accountants Act, 1949 for failing to report about a misleading Note no. 11 to financial statement of M/s Almond Tree Owners Welfare Association for the year ended 31st March, 2019. It was stated that the Complainant being a resident of M/s Almond Tree Owners Welfare Association, (ATOWA) (hereinafter referred to as 'Association') noted the financial statements of the Association for the year ended 31st March, 2019 audited by the Respondent contains an item "Bad Debt Written off" for Rs. 33,29,814/- being 41% of the total expenditure for the year in its Income & Expenditure Account, which arose due to non-payment of maintenance due by few owners of the Association. The Note no.11 to said Financial Statements (C-19) mentions that "The Amount of Bad Debts written off in the accounts represents the amount determined as per the Court Order nos.OS/5169/2017 and



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OS/1145/2018 and further ratified by the members of the association in general meeting.” And the same gave a misleading view as there was no such order of the Court either for determining the amount of write-off or for disposing of the case. Thus, it was alleged that the Respondent had failed to report the same and thus he had not applied the required professional diligence and standards in discharging his duties.

It was noted that Item (6) and (7) of Part-I of the Second Schedule states as under:-

PART I: Professional misconduct in relation to chartered accountants in practice

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

“(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity”;

“(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties”

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 25th March, 2022 was addressed to him thereby granting him an opportunity of being heard in person and/or to make oral/ written representation before the Committee on 8th April, 2022 through video conferencing.
3. The Respondent appeared before the Committee on 8th April, 2022 through video conferencing and made his oral representations on the findings of the Disciplinary Committee. The Committee considered the oral as well as the written representation dated 1st March, 2022. The Respondent inter-alia submitted the financial statements for FY 2018-19 together with notes to accounts and other relevant information was prepared and presented by the Management of the association and his role was to form an opinion on the same. The fact that notes to accounts were prepared by the Management was mentioned in the audit report. The Respondent further referred upon the doctrine of indoor management and stated that Para 12 (a) of the Memorandum of Understanding (MOU) of the Association registered as 182/2013-14 dated 07/10/2013 gives power to General Meeting to consider and pass the annual accounts and that as an auditor, the Respondent had prerogative to accept the statement made by the Managing Committee. In any case, as per him, the audit was conducted in accordance with the pronouncements/technical standards in vogue and that ‘bad debts’ that were written off were indeed irrecoverable and hence appropriately adjusted in the financial statements.
4. The Committee considered the oral as well as written representation of the Respondent and noted that in extant case the allegation is limited to misleading information being provided in Notes to Accounts which being 41% of the total expenditure for the year in its Income & Expenditure Account in the accounts was material and therefore tantamount to material misleading information. At the outset, it was noted that notes to accounts are integral part of the financial statements and that the readers are expected to read the financials alongwith the notes to accounts thereon. Similarly, an auditor is under an obligation to verify the veracity of all the material facts as contained in financial statements including the notes to accounts. It was noted that in Note no.11 in the financial statements of the Association for the year ended 31st March, 2019 (C-19), it was mentioned that the Amount of Bad Debts written off for Rs.33,29,814/- (C-11) were determined as per the Court Order nos. OS/5169/2017 and OS/1145/2018 however, there was no such order of the Court either for determining the amount of write-off or for disposing of the case. It was viewed that



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although the financial statement gave true and fair view of its state of affairs but it could not be denied that there was misleading information given in respect of a material item of expenditure that the Respondent being statutory auditor of the Association failed to report in his audit report. Thus, the Respondent had failed to perform his professional duties with due diligence. The Committee further noted that the Respondent himself admitted his mistake during the proceedings before the bench.

5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Items (6) and (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the Respondent **CA. Sunil Kumar C. (M. No. 209510)** be Reprimanded.

Sd/-

[CA. Aniket Sunil Talati]
Presiding Officer

Sd/-

[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-

[Shri P.K. Srivastava]
Member (Govt. Nominee)

Sd/-

[CA. Vishal Doshi]
Member

Sd/-

[CA. Sushil Kumar Goyal]
Member

Date: 14/06/2022

Place: New Delhi

Jyotika
प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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ICAI Bhawan, Vishwas Nager, Shahdra, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2021-22)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(18) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No. PR/241/19-DD/234/2019-DC/1419/2021

In the matter of:

CA. Venkata Subramanian

A-23, Almond Tree,
Near Kanchenahalli Railway Gate
Off Doddaballapur Road
Yelahanka
Bangalore - 560064

..... Complainant

versus

CA. Sunil Kumar C.

H.No.49, 7th Cross
Patel Pillegowda Layout,
Ramachandrapura
Jalahalli P.O.
Bangalore - 560013

..... Respondent

MEMBERS PRESENT:

CA. Nihar N Jambusaria, Presiding Officer

Smt. Anita Kapur, Member (Govt. Nominee) & Presiding Officer

CA. Chandrashekhhar Vasant Chitale, Member

CA. P.K. Boob, Member

Date of Final Hearing : 30th September, 2021 through VC

Parties Present:

1) CA. Venkata Subramanian – Complainant

2) CA. Sunil Kumar C – Respondent

Charges in Brief:

1. The Committee noted that in the *Prima Facie* Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent was held *prima facie* guilty of Professional Misconduct falling

within the meaning of Items (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Items to the Schedule state as under: -

Part I of the Second Schedule

"(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;

(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"

Charges against the Respondent

2. The Complainant being a resident of M/s Almond Tree Owners Welfare Association, (ATOWA) (hereinafter referred to as '**Association**') noted in the financial statements of the Association for the year ended 31st March, 2019 (**C-10 to C-19**) audited by the Respondent that there was an item "Bad Debt Written off" for Rs.33,29,814/- (**C-11**) being 41% of the total expenditure for the year in its Income & Expenditure Account, which arose due to non-payment of maintenance due by few owners of the Association. In this regard there has been a Note no.11 to such Financial Statements (**C-19**) which reads as below:

"The Amount of Bad Debts written off in the accounts represents the amount determined as per the Court Order nos.OS/5169/2017 and OS/1145/2018 and further ratified by the members of the association in general meeting."

, It was stated that the aforesaid Note no.11 in the financial statements of the Association for the year ended 31st March, 2019 (**C-19**) gave a misleading view as there was no such order of the Court either for determining the amount of write-off or for disposing of the case. Thus, it was alleged against the Respondent that the Respondent had failed to report the same and thus he had not applied the required professional diligence and standards in discharging his duties.

Proceedings:

3. During hearing held on 30th Sept, 2021, the Committee noted that both the Complainant and the Respondent were present before it for the hearing. Thereafter, they gave declaration that there was nobody except them in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. Being the first hearing, the Complainant

as well as the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Respondent stated he was aware of the allegations raised against him and the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, he pleaded guilty in the matter and made his submissions in the matter.

Based on the documents available on record and after considering the oral and written submissions made by both the parties before it, the Committee concluded hearing in the matter.

Findings of the Committee:

4. The Committee noted that in the extant case, it was alleged against the Respondent that Notes no.11 in the financial statements of the Association for the year ended 31st March, 2019 (C-19) audited by him gave a misleading view that the Amount of Bad Debts written off for Rs.33,29,814/- (C-11) being 41% of the total expenditure for the year in its Income & Expenditure Account in the accounts, represented the amount determined as per the Court Order nos. OS/5169/2017 and OS/1145/2018 and was further ratified by the members of the association in general meeting. However, as per the Complainant there was no such order of the Court either for determining the amount of write-off or for disposing of the case.

5. The Committee noted the submissions made by the Respondent before it that there was a typographical error and once the error was found out, it was intimated to the Managing Committee which debated in the Annual general meeting about the write off. However, in the meeting, nobody took the error in the report seriously and no explanation about the same was sought. He further admitted that accordingly he did not take it seriously at that point of time but could have applied his professional judgement to ascertain it and report accordingly.

6. In the light of above facts as well as the fact that the Respondent had accepted guilt in the matter, the Committee viewed that the Respondent had failed to exercise due diligence while performing audit especially with respect to the decision of writing off the bad debts of a material amount. Moreover, there was also an error in the note

-11 to the Financial Statements which tantamount to misleading information as contained in the financial statement that the Respondent had failed to report in his audit report. Thus, in light of the admission of the Respondent before the Committee whereby he accepted his guilt, the Respondent is held **GUILTY** of "Professional Misconduct" falling within the meaning of Items (6) and (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:

7. Thus, in conclusion, the Respondent is held **GUILTY** of "Professional Misconduct" falling within the meaning of Items (6) and (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
[CA. Nihar N Jambusaria]
Presiding Officer

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

Sd/-
[CA. Chandrashekar Vasant Chitale]
Member

Sd/-
[CA. P.K. Boob]
Member

Date: 17th December, 2021
Place: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy
Mohita Khanna
सीए. मोहिता खन्ना / CA. Mohita Khanna
सहायक सचिव / Assistant Secretary
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