



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

[PPR/P/109/14-DD/49/INF/15-DC/772/18]

**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.**

[PPR/P/109/14-DD/49/INF/15-DC/772/18]

In the matter of:

CA. Mehul Shah (M.No.049361), M/s. Shah Shah & Shah, Mumbai in Re:

502, Damji Shamji Trade Centre,
Vidhyavihar West

MUMBAI- 400086

.... Respondent

MEMBERS PRESENT (Physically):

1. CA. (Dr.) Debashis Mitra, Presiding Officer
2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee
3. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee
4. CA. Rajendra Kumar P, Member

DATE OF MEETING : 08.04.2022 (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 11.02.2022, the Disciplinary Committee was inter-alia of the opinion that **CA. Mehul Shah (M.No.049361)**, (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 from BKC Mumbai Office of ICAI. The Respondent inter-alia submitted that he had duly checked the documents while conducting the audit. He further submitted that findings of the Disciplinary Committee are based on subsequent events which were not known to him at time of audit. He further requested the Committee to take lenient view in his case.

3. The Committee noted that the Respondent did not conduct the audit properly as there were adverse inferences in CARO report which were giving indications about material effect on financial sustainability of the Company and these were overlooked by the Respondent. The



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Committee also noted that the Company diverted money to its wholly owned subsidiaries situated outside India by way of loans and advances and such subsidiaries were not doing any business. The Committee found lack of skepticism by the Respondent in conduct of his professional duties.

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

5. 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 that name of the Respondent CA. Mehul Shah (M.No.049361), Mumbai be removed from Register of members be removed for a period of six months along with a fine of Rs 5,00,000/- (Rupees Five Lakh).

Sd/-

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

Sd/-

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

Sd/-

(SHRI ARUN KUMAR, I.A.S. RETD.)
GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

Jyotika

Date: 01.06.2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy

Place: New Delhi

श्री. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनालय / 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

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. : [PPR/P/109/14-DD/49/INF/15/DC/772/2018]

In the matter of:

**CA. Mehul Shah (M.No.049361), M/s. Shah Shah & Shah, Mumbai in Re:
502, Damji Shamji Trade Centre,
Vidhyavihar West,
MUMBAI – 400 086**

.....Respondent

MEMBERS PRESENT:

**CA. (Dr.) Debashis Mitra, Presiding Officer (Through VC)
CA. Amarjit Chopra, Govt. Nominee (Through VC)
CA. Babu Abraham Kallivayalil, Member (Through VC)**

DATE OF FINAL HEARING : 30.09.2021 (Through Video Conferencing)

PARTIES PRESENT :

**Respondent : CA. Mehul Shah (Through VC)
Counsel for the Respondent : CA. Jayant Gokhale (Through VC)**

CHARGES IN BRIEF:-

1. The Committee noted that in the present case, the Respondent being Statutory Auditor of M/s. Shree Ashtavinayak Cine Vision Ltd. (hereinafter referred to as the "Company") was held 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 by Director (Discipline) on the charge that the

Respondent/ Respondent firm relied on the management representations of the Company and failed to verify whether the funds diverted by the Company as loans granted to the overseas subsidiary and capital advances were actually represented by any assets or whether the amounts shown as recoverable from subsidiaries were in fact recoverable or not.

BRIEF FACTS OF THE PROCEEDINGS:

2. On the day of the final hearing on 30th September 2021, the Committee noted that the Respondent was present before it along with his counsel CA. Jayant Gokhale through Video Conferencing mode from Mumbai Office of ICAI. Thereafter, the Counsel of the Respondent argued on the merits of the case and presented his line of defense. After hearing the Counsel of the Respondent at length, the Committee decided to conclude the hearing.

FINDINGS OF THE COMMITTEE

3. The Committee noted that the Counsel for the Respondent in his defence made by oral/ written submissions had inter-alia submitted as under:
 - a. That the Respondent had complied with the applicable five Auditing Standards viz. SA 240, SA 500, SA 505, SA 600 and SA 610.
 - b. The Company advanced certain moneys to their subsidiaries who were successful production house.
 - c. The Respondent had not only taken confirmation from the management of the Company but also had taken confirmation from the auditors of the subsidiaries.
 - d. The investigator appointed by CLB did not provide opportunity to him for hearing. Further the investigator was not a Chartered Accountant.
 - e. The EOW after three years of investigation discovered fraud in the Company.
 - f. The forensic auditor had confirmed that charges against the Respondent were dropped, and his name was not included in the chargesheet filed by EOW. The arrests included the Directors and the internal auditor but did not include the Respondent.
 - g. The Respondent had given Emphasis of matter.

4. The Committee noted that the Respondent in Emphasis of matter had mentioned as under (Page B-171 of prima-facie opinion) :

"Attention is invited to Sub Note No. 6 of Note No. 31 of Annual Accounts as regards the challenges that the Company is facing on financial front; and thus has not been able to repay the loans, secured and unsecured, statutory dues, and other unsecured creditors. A few parties have filed a suits against the Company for recovery of debts including winding up of the Company. One of the main reasons for the financial challenges is money raised by the Company through various sources are deployed in various projects of production and distribution of films which have been delayed owing to various reasons. The money advanced to Indian and foreign subsidiaries of the Company are deployed by the said subsidiaries in various production and distribution of films projects which are also delayed. The management is hopeful to overcome the challenges that are in way. The management is of the view that amounts realizable by the Company are larger than the liabilities of the Company, and the present financial challenges are part of temporary phase. Our opinion is not qualified in respect of this matter."

The Committee on perusal of the same noted that the Company was unable to carry on the business at a particular point of time because the funds invested by the Company were sunken. The Committee further observed that in such a circumstance the Company was required to make appropriate provision for the same.

5. The Committee observed that the movement of assets, liabilities, revenue and expenses as highlighted in the investigation report (A-17) and financial statements of the overseas subsidiary company for the financial year ended 31st March, 2013 (B-19 to B-35) indicates that the Company has granted loans to its overseas subsidiary company which have been advanced as capital advances to the third parties for acquiring copyrights for making motion pictures which are still not completed. It has been observed that the subsidiary company has not earned any revenue during the period from the financial year 2009-10 to 2012-13 except during the period from 01.04.2010 to 30.09.2010 and thus, it appears that there

is no business activity in the subsidiary company. It is pertinent to note that the Respondent cannot be relieved of his professional duties by merely highlighting the fact of financial crisis in the Company, however he is required to report such frauds and financial irregularities and its repercussions on the financial position of the Company. The various stands taken in defence by the Counsel are not tenable and the Respondent fail to produce any evidence to substantiate his claim rather more of conservative accounting was followed and merely emphasis of matter was placed by the Respondent.

6. The Committee further noted that the Company had given advances to the actors (film stars) in lieu of certain films to be produced. The Committee is of the view that such amount cannot be treated as advance to the star cast rather it will be treated as work-in-progress. The Company showing it as advance to the person concerned but it was a part of work-in-progress of the Company which will be evaluated whether it is likely to happen or is not likely to happen in near future. The Committee further noted that Company had advanced money of Rs. 2.75 crores to Akshay Khanna through Neeraj Vohra on 11.02.2008 and the said amount was still outstanding in 2013. Similarly in other cases monies were advanced to various persons (film actors etc.) in past and the same were still outstanding.

6.1 The Committee noted that as per SA 500, an external confirmation represents audit evidences secured from the third party either through the paper or electronic mode. External confirmation needs to be secured to reduce the audit risk to an acceptable level. Noting, no confirmation of balances had been secured by the Company and the Respondent in respect of above-mentioned advances. Therefore, the Committee concluded that the Respondent did not exercise due diligence in the audit of the auditee company and did not plan the audit in such a way to apply additional substantive audit procedures.

7. The Committee observed that there are lots of adverse inferences in the CARO report which also indicates defaults in Company such as Item No. 9 on the CARO report that TDS was not paid for years 2012-13, 2013-14. The Committee also

observed certain unusual practices adopted by the Company such as loan is repayable along with interest after 60 months the date of loan agreement. The Committee noted that inspite of non-recovery of the principle amount the interest charged on the said principle was reversed by the Company. The Respondent as auditor of the parent company failed to qualify in this aspect.

8. The Committee in view of the facts and submission made on records, that there are non-disclosure of financial irregularities in the Audit Report issued by the Respondent. Such financial irregularities are reportedly on account of siphoning of funds by the Company by way of granting loans and capital advance payments made for film production projects to the wholly owned subsidiary of the Company, which is carrying no business activity, which could have a bearing of materially affecting the financial position of the Company. The Respondent failed to disclose various disclosures required proves lack of due diligence on the part of the Respondent.

CONCLUSION

9. In view of the above findings stated in above paras vis a vis material on record, Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** under Clause (7) of Part- I of the Second Schedule to the Chartered Accountants Act, 1949.

sd/-


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

approved & confirmed through email
(SHRI AMARJIT CHOPRA)
GOVERNMENT NOMINEE

approved & confirmed through email
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

DATE: 11TH FEBRUARY, 2022
PLACE: NEW DELHI

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


विभागाध्यक्ष/Debashis Mitra
कार्यकारी अधिकारी/Executive Officer
अनुशासनात्मक विभाग/Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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