



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

[PR/57/19-DD/79/19-DC/1374/2020]

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/57/19-DD/79/19-DC/1374/2020]

In the matter of:

CA. Yogesh Chunilal Shah (M.No.115981), Mumbai
506/6, Gold Crest Centre,
LT Road, Opp. Factory Lane,
Borivali East
MUMBAI - 400 092

.... **Complainant**

-Vs-

CA. Shrikant Dilip Kawde (M.No.111573), Navi Mumbai
B-201, Prince Place CHS Ltd.,
Plot No 14/15, Near Shani Mandir,
Sector 11, Near Ryan International Kharghar,
Navi Mumbai- 410210

.... **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 19.01.2022, the Disciplinary Committee was inter-alia of the opinion that **CA. Shrikant Dilip Kawde (M.No.111573)**, (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (8) of Part I of the first Schedule to the Chartered Accountant Act, 1949.

2. The Committee noted that the Respondent was present through video conferencing mode. He submitted that he before commencement of audit had communicated with the



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Complainant verbally. The Committee noted that the Respondent admitted his mistake that he had not communicated in manner laid down in Code of Ethics.

3. The Committee accordingly noted that the issue involved in the present matter is that the Respondent had not communicated in manner laid down in Code of Ethics which is duly accepted by the Respondent.

4. 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 Respondent CA. CA. Shrikant Dilip Kawde (M.No.111573), be reprimanded.

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

Date: 01.06.2022

Place: New Delhi


प्रमाणित सत्य प्रतिलिपि / Certified true copy

सी.प. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / 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

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/57/19-DD/79/19-DC/1374/2020]

In the matter of:

CA. Yogesh Chunilal Shah (M.No.115981),

506, Gold Crest Centre,

L T Road, Opp. Factory Lane,

Borivali East

MUMBAI – 400 092

.... Complainant

-Vs-

CA. Shrikant DilipKawde (M.No.111573),

B-201, Prince Palace CHS Ltd.,

Plot No. 14/15, Near Shani Mandir,

Sector – 11, Near Ryan International Kharghar,

NAVI MUMBAI – 410 210

.... Respondent

MEMBERS PRESENT:

CA. (Dr.) Debashis Mitra, Presiding Officer,

Sh. Rajeev Kher, I.A.S. (Retd.), Government Nominee,

CA. Amarjit Chopra, Government Nominee

CA. Babu Abraham Kallivayalil, Member

DATE OF FINAL HEARING : 25.06.2021 (through Video Conferencing)

PARTIES PRESENT:

Complainant : CA. Yogesh Chunilal Shah
Respondent : CA. Shrikant Dilip Kawde
(Both present through Video Conferencing)

CHARGES IN BRIEF:

1. The Committee noted the charges against the Respondent is that he had accepted the tax audit of following entities for financial year 2017-18 without first communicating with the Complainant being the previous auditor and when undisputed audit fees was pending to be paid to him:
 - a) M/s. Al Bela Creation – Proprietor Mr. Bhawan Velji Ravaria
 - b) M/s. Meet Apparels – Proprietor Mr. Mukesh Kumar Ranchodbhai Chandat
 - c) M/s. A.M. Garments – Proprietor Mr. Arvind Haribhai Ravariya
 - d) M/s. Krishi Apparels – Proprietor Mr. Ambavi Bhanji Patel
 - e) M/s. City Heart – Proprietor Mr. Balvant Waghji Patel
 - f) M/s. Kalyanastu Creation – Proprietor Mr. Bechar Velji Patel

The Complainant has also alleged regarding undercutting of fees.

BRIEF FACTS OF THE PROCEEDINGS:

2. On the day of the hearing on 25th of June, 2021 the Committee noted that both the Complainant & the Respondent were present before it through Video Conferencing mode. Both the parties were administered Oath. At the outset, the Complainant presented the charges against the Respondent & vehemently argued that as to how could the Respondent accept audit in certain entities when he had not communicated to the previous auditor as per the requirements of law and more specifically when the fees of the previous auditor was yet to be paid. On the same, the Respondent submitted that the fees of the Complainant was duly paid later and as far as the question of seeking NOC from the Complainant is concerned, he did so over the phone, however, the latter was allegedly, ill-spoken with him and did not revert him on time.

2.1 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 heard both the sides patiently and noted the submissions of the Respondent that he tried calling the previous auditor over the phone, however, allegedly, the latter did not respond to the former. It also noted that there was a clear-cut requirement under the Chartered Accountants Act and the Code of Conduct for the Chartered Accountants to mandatorily communicate by the incoming auditor before accepting an audit with the previous auditor in a mode duly prescribed in it which is through a Registered AD Speed Post or such other positive evidence of communication.
4. Since, the Respondent failed to produce any positive evidence to establish that he communicated with previous auditor, he is held guilty of professional misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
5. The abovesaid code of conduct also requires the incoming auditor to try to find out, through such communication with the previous auditor, the professional reason, if any, for not accepting the audit assignment. Noting, one among these requirements was to determine if there was any undisputed fees outstanding to the previous auditor which is not paid to him.
6. As regards undisputed fee is concerned the Committee noted that the Complainant failed to establish the charge by presenting concerned Balance Sheets on record to prove the outstanding fees payable to him. The Committee also noted that the Respondent had assured the Complainant for payment of his fees. Moreover, the Committee also noted that the Complainant had already been paid an amount of Rs 1.73 Lakhs approx. The Committee viewed that said amount could be construed as payment towards audit fees to the Complainant besides fees for other services, as he did not do any communication to the entity for not being paid towards his audit fees.
7. Therefore, in absence of the necessary documents and inability of the Complainant to prove this charge with substantive records, the Committee decided to exonerate the Respondent on this charge.

CONCLUSION:

8. In view of the above observations, considering the submissions of the parties and documents on record, the Committee is of the considered opinion that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule and **Not Guilty** of Item (1) of Part- II of Second Schedule to the Chartered Accountants Act, 1949.

sd/-
(CA. (DR.) DEBASHIS MITRA)
PRESIDING OFFICER

(approved & confirmed through email)
(SH. RAJEEV KHER, I.A.S. (Retd.))
GOVERNMENT NOMINEE

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

sd/-
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Date : 19.1.2022
Place : New Delhi

Jyotika
प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अ. प्रशासनिक विभाग / Disciplinary Directorate
भारतीय चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
Chartered Accountants of India
अ. प्रशासनिक विभाग, शाहदरा, दिल्ली-110032
(CA) (A) (W) (D) Vishwas Nagar, Shahdra, Delhi-110032