



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

[PR/43/13-DD/42/13-DC/628/17] & PPR/14/15/DD/13/INF/15 (Clubbed)

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-43/13-DD/42/2013-DC/628/2017] & PPR/14/15/DD/13/INF/15 (Clubbed)

In the matter of:

Shri Samresh Agarwal,
322-A, Shop No.1,
Sant Nagar, East of Kailash,
NEW DELHI - 110 065

.... Complainant

-Vs-

CA. Chunnilal Choudhary (M.No.037784),
M/s. Chunnilal & Co.,(FRNo. 037784W)
102, Shreeji Kiran 'A', Pandya Cottage,
Opp. Dwarkadish Temple,
Tejpal Road, Vile Parle (E),
MUMBAI - 400 057

.... 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. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
3. CA. Rajendra Kumar P, Member (Present in person)
4. CA. Cotha S Srinivas, Member (Present through Video Conferencing)

DATE OF MEETING : 01.06.2022 (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. Chunnilal Choudhary, Mumbai** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountant Act, 1949.



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2. The Committee noted that the Respondent was present through Video Conferencing Mode. The Respondent relied on his submission dated 29-04-2022 filed by him in response to the findings of the Disciplinary Committee. The Committee noted that the Respondent had, inter-alia, submitted as under:

- a. That he had properly verified the documents and correct disclosures were made in notes to accounts and CARO.
- b. That his firm came into existence in 1985 and there is not even a single incident where he or any of his partners were found guilty of professional misconduct.
- c. That he, as an auditor of the company, has been made a soft target by the Complainant to settle some grievances against the management of the company and the Complainant is using this forum to serve his ulterior motives.
- d. That he had disclosed discount of Rs. 160 crores in the CARO for the financial year 2011-12. He further submitted that he had sent letter(s) directly to overseas and domestic debtors which were duly served and since no replies were received, he presumed balances as correct.
- e. That he had applied alternate audit procedures & verified the workings of physical inventory verification & its valuation.
- f. That the stock auditor's observation that debtors are overstated by Rs. 922 crores is factually incorrect.

The Respondent accordingly prays that no punishment may be granted to him.

3. The Committee noted that the Respondent, being the statutory auditor of the Company (M/s Varun Industries Limited) for the financial year 2011-12, failed to report material misstatements made in the annual report of the Company. The Respondent failed to make disclosure of the fact that the company had given a huge discount of Rs. 160 crores to debtors and further, the payments from certain debtors were deferred for the period of 5 years by the Company, which had impacted the going concern status of the same. The Committee noted that since the payment for certain debtors was deferred for 5 years, it was depicted as current assets, which was contrary to the definition of current assets. The Committee noted that Respondent about the fact that certain foreign debtors were not to be classified as current assets could not be treated as monetary items and accordingly, could not have been restated at prevailing exchange rates. The Respondent relied upon the figures provided by the management with regards to inventory and did not participate in inventory verification. The Committee noted that the Respondent, despite



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being aware of the Ongoing CDR proposal for the Company, chose to ignore the fact and did not rework on the figures of inventories and debtors and issued a clean report to the Company. The Committee noted that the Respondent did not report the fact of the devolvement of LC in CARO. The Committee observed that the Respondent had a long association as an auditor with the Company but failed to report in his audit report and CARO as well necessary remarks/comments and accordingly failed to act diligently and discharge his professional duties in a manner as expected from a Chartered Accountant.

4. The Committee noted that it is evident from the findings that the Respondent relied on the data/information provided to him by the Company and did not exercise due diligence before issuing an audit report of the Company. The Committee also noted that the Respondent has been associated as a Statutory auditor of the Company since 1986-87 and, accordingly, was well versed with the actual financial position of the Company. He was expected to be more vigilant in his professional duties. Accordingly, the Committee viewed that ends of justice can be met if reasonable punishment is imposed upon the Respondent to commensurate with 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 the Respondent - CA. Chunnilal Choudhary (M.No.037784), Mumbai be removed from the Register of members for a period of 01 (One) year along with fine of Rs. 1,00,000/- (Rupees One 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/-

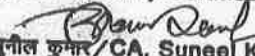
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-

(CA. COTHA S SRINIVAS)
MEMBER

DATE: 13th JULY, 2022
PLACE: NEW DELHI

प्रमाणित सत्य प्रतिलिपि / Certified true copy


सीए. सुनील कुमार / CA. Suneel Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इन्स्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
ICAI Bhawan, Vishwa Nagar, Shahdara, Delhi-110032

Shri Samresh Agarwal, New Delhi -vs- CA. Chunnilal Choudhary (M.No.037784)

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-43/13-DD/42/2013-DC/628/2017] & PPR/14/15/DD/13/INF/15 (Clubbed)

In the matter of:

Shri Samresh Agarwal,
322-A, Shop No. 1,
Sant Nagar, East of Kailash,
NEW DELHI – 110 065

....Complainant

Versus

CA. Chunnilal Choudhary, (M.No.037784)
M/s. Chunnilal & Co. (FRNo.101947W)
102, Shreeji Kiran 'A', Pandya Cottage,
Opp. Dwarkadish Temple,
Tejpal Road, Vile Parle (E),
MUMBAI – 400 057

.....Respondent

MEMBERS PRESENT:

CA. (Dr.) Debashis Mitra, Presiding Officer (Through VC)
Shri Rajeev Kher, I.A.S (Retd.), Govt. Nominee (Through VC)
CA. Amarjit Chopra, Government Nominee (Through VC)
CA. Babu Abraham Kallivayalil, Member (Through VC)
CA. Rajendra Kumar P, Member (Through VC)

DATE OF FINAL HEARING :15.09.2021 (Through Video Conferencing)

PARTIES PRESENT :

Counsel/Representative for Complainant : CA. Prince Agarwal

Counsel for Respondent : CA. A.P Singh

CHARGES IN BRIEF:-

1. The Committee noted that in the present case, the Complainant levelled following charges against the Respondent being statutory auditor of M/s Varun Industries Limited (hereinafter referred to as the “**Company**”):
 - a. The Respondent, being the Statutory Auditor of the Company for the financial year 2011-12, failed to report material misstatements made in the annual report of the Company due to which the stock and books debts worth Rs. 1150 crores were siphoned off from the Company.
 - b. The Respondent while auditing the accounts of the Company for financial year 2011-12, failed to obtain sufficient audit evidence about the appropriateness of going concern assumption made by the management while preparation and presentation of the financial statements of the Company and thus failed to disclose and report material uncertainty about entity’s ability to continue as a going concern.
 - c. The Respondent has been grossly negligent in presenting a true and fair view on the annual accounts of the Company for financial year 2011-12 by not commenting, taking note and placing on record material deviation in financial position of the Company as on 31st March 2012 as is claimed by Varun Industries Limited, incorporating irregularities to the extent of more than Rs. 1150 crores in the Corporate Debt Restripping Proposal submitted by it to CDR Cell much earlier to his Audit Report dated 09th August 2012. CDR Proposal was acknowledged by the CDR Cell vide its letter dated 02nd August 2012 as per BSE site.

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- 1.1 The Committee noted that the Respondent was held Prima-facie Guilty by the Director (Discipline) of Professional Misconduct falling within the meaning of Items (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 in respect of second and third charge as alleged by the Complainant.
- 1.2 The Committee while considering the Prima-facie opinion also held the Respondent guilty in respect of first charge discussed in para 9.3 of prima-facie opinion on which the Respondent was held prima-facie not guilty by the Director (Discipline). In view of the Committee, the Respondent was not able to appropriately deal with stock and debtors in his audit report and accordingly the Committee decided to further look into this charge at the time of hearing. Accordingly, the Committee was of the view that the Respondent is guilty of Professional Misconduct falling within the meaning of Items (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 in respect of all charges levelled by the Complainant against him.
- 1.3 The Committee also noted that in an Information case No. PPR/14/15/DD/13/INF/15 which was clubbed with this case, the Informant has made an additional charge basically relating to the fact that the Respondent did not obtain balance confirmations from all the debtors.

BRIEF FACTS OF THE PROCEEDINGS:

2. The Committee noted that detailed hearing in the present matter earlier took place on 4th January, 2019, 18th April 2019, 25th June 2019, 18th August 2020, 28th August 2020, 14th June 2021, 27th July 2021 and 17th August 2021.
- 2.1 On the day of final hearing held on 15th September 2021, the Committee noted that the Counsel/Representative of Complainant CA. Prince Agarwal was present before it through Video Conferencing mode from his place. The Respondent's Counsel CA. A.P. Singh was also present before it through Video

Conferencing mode. At the outset the Committee offered the Complainant's Counsel to make his counter submission on the submission dated 14th August 2021 of the Respondent. The Counsel of the Complainant while making his submissions in this regard also pointed out certain observations. Thereafter, the Respondent's Counsel presented his line of defense.

- 2.2 When the Committee sought clarification from the Respondent's Counsel on various points raised by the Complainant's Counsel, the Respondent's Counsel submitted that he wanted the same in writing from the Complainant and/or his Counsel and accordingly sought 10 days time to revert after receipt of the same. The Committee gave the direction to the Complainant's Counsel to submit his final submissions in writing within next two days and the Respondent was directed to submit his final submissions, if any, in next 10 days of receipt of the same.
- 2.3 With the above directions, the Committee decided to conclude the hearing by reserving the judgment in the instant matter.
- 2.4 Thereafter this matter was placed in meeting dated 18th October 2021 for consideration of the facts and arriving at a decision by the Committee.

MEMBERS PRESENT ON 18.10.2021:

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

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

CA. Amarjit Chopra, Government Nominee(Through VC)

CA. Babu Abraham Kallivayalil, Member (Through VC)

The Committee noted that both the parties have made their submissions in the matter as directed to them in the previous hearing held on 15th September 2021. Keeping in view the facts and circumstances of the case, material on record and submissions of the parties the Committee passed its judgement.





FINDINGS OF THE COMMITTEE

3. The Committee noted that the Counsel of the Respondent vide his submissions had inter-alia submitted that the Respondent had properly verified the documents and was justified and diligent while performing his duties. He further submitted that although the complaint is for siphoning of stock and sundry debtors, but no evidence of siphoning is produced on records by the Complainant. The Counsel for the Respondent drew attention of the Committee to balance sheet of the Company for financial year 2011-12 to establish existence of these assets. He further added that the existence of these assets is also confirmed through report of stock auditors appointed by the Bank.
- 3.1 The Committee regarding the alleged charges observed that the Company had given discount of Rs. 160 crores to debtors and further the payments from certain debtors were deferred for a period of 5 years by the Company. The Respondent's Counsel in this regard submitted that the Respondent had disclosed the discount given to debtors in Profit and loss account for the financial year 2011-12 and had also disclosed this fact in audit report. He further submitted that discount to debtors was allowed due to various reasons which were beyond the control of the business entity such as global factors, meltdown of economy and loss of equilibrium in foreign exchange rates etc.
- 3.2 At the outset, the Committee noted that although the Respondent has claimed to have made disclosure of facts regarding discount and extension of deferment of payment facility but in the audit report no such specific disclosure was found to have been made except in Notes to accounts which disclosed as under:

"24.6 Exception Items:

Discount provided to Debtors- We have provided for 10% discount to our major customers due to adverse global market conditions."

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3.2.1 The Committee noted that settlement with the certain debtors for deferment of payment and discount was made on 15th April 2012 whereas the audit report of the financial year 2011-12 was signed by the Respondent on 9th August 2012. Hence, the Respondent was aware about the settlement deed made with the debtors. It was observed that the matter pertained to Rs. 160 crores discount which was significant in terms of total value of assets as reflected in note 14, hence there was major diminution in value of the debtors to be realised, hence the Respondent needed to be more careful while dealing with this item and was required to highlight terms of the settlement deed, which prima-facie were prejudicial to the interest of the shareholders, in his audit report.

3.2.2 The Committee also observed that the Respondent in para 4(a) of his main audit report (**Page C-40 of Prima-facie Opinion**) had mentioned that

“We have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purpose of our audit except some of the confirmations from debtors and creditors which have not been received from them.”

The Committee was of view that discount given to debtors was huge and more unusual was the deferment of payment for period of five years from such debtors. Usually in commercial transactions, when such a discount is allowed it is with a view to incentivise the debtors to make an early payment, but here the facts were absolutely contrary to the same. Further, the Committee viewed that while dealing with the discount of Rs 160 crores which was given to debtors, the Respondent should have reported it as exceptional item in his audit report of the Company for financial year 2011-12. In common business parlance when an entity is giving discount to the Debtors normally the payment is received immediately but in present case despite giving huge discount of Rs. 160 crores to debtors the payment was deferred for five years.

The Committee observed that it was unusual to grant such a huge discount

and then grant moratorium for a period of five years particularly in case of exports. The Respondent being aware of this settlement should have been far more cautious and diligent in verification of debtors. Under the said circumstances he should have gone for direct confirmation as per requirements of SA-505 from various parties, which he failed to produce before the Committee. In view of the above the Committee is of the opinion that the Respondent failed to exercise due diligence expected from him as an auditor to gather requisite audit evidence with regard to existence of debtors and the reasons for discount and moratorium for repayment of debtors. The Respondent issued the audit report without taking into consideration the above facts. This according to the Committee would have necessitated direct confirmations from various customers to be received by the auditors to verify the existence of debtors which they failed to do and failed to produce the evidence thereof before the Committee. Moreover, the Respondent was required to comply with the requirements of paras 11 & 13(a) of SA 200 whereby he should have obtained the reasonable assurance about whether the financial statements as a whole were free from material misstatements, whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial statements were prepared, in all respects, in accordance with an applicable financial reporting framework. The Committee noted the gross negligence on part of the Respondent for his failure to obtain the same and not bringing relevant fact to the knowledge of shareholders.

4. The Committee observed that despite the fact that the payment for certain debtors was deferred for 5 years, the Company depicted such debtors as Current Assets. The Committee noted that disclosure of debtors as current asset by the Respondent was contrary to the definition of current assets which are expected to be realized within a period of 12 months.
5. The Committee also observed that in view of the facts that certain foreign debtors were not to be classified as current assets could not be treated as monetary items and accordingly could not have been restated at prevailing exchange rates. The Respondent was grossly negligent in his duties with

regard to deviation from principles of restatement enunciated in AS-11 (The Effect on Changes in Foreign Exchange Rates).

- 5.1 The Committee also noted that the Respondent relied upon the figures provide by the management with regard to inventory. SA-580 (Written Representation) which stipulates for checking the veracity and authenticity of the various management representations by the auditor.
6. The Committee also noted that the Respondent merely relied on figures provided and certified by the management to him and did not participate in inventory verification. The Committee noted that the Respondent should have applied alternate audit procedures to check the veracity of management representations with regard to inventory and other assets figures. It was also noted that the Respondent failed to produce any evidence with regard to his presence at the time of Inventory verification and his workings with regard to his Inventory valuation. The Counsel for the Respondent in his support had drawn attention of the Committee on report of stock auditors appointed by the Bank, which was found to be incomplete by the Committee. The Committee observed that the Respondent had not adduced any documentary evidence in support of his contentions except the incomplete report of stock auditors and the management representation regarding debtors. The Committee noted that management representation cannot be treated as a substitute to audit evidence. It is the responsibility of the auditor to test the veracity of management representations and to ensure that the financial statements are free from material misstatements.
7. The Committee noted that as per records, the valuation of stock and debtors was conducted on 22nd December 2011 by stock auditor appointed by Corporate Debt Re-structuring (CDR) Cell. The Complainant stated that the stock auditor observed that debtors were overstated by Rs. 922 crores as given here under:-

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| Particulars | Figures in Rs. Crores |
|---|--------------------------|
| Debtors as on 22-12-2011(as per valuation report of Stock Auditor) | 314 |
| Add: Sales made in the Q4 i.e. Jan to March,2012 | 248 |
| Maximum Total Debtors which can be outstanding as on 31-03-2012 (A) | 562 |
| Debtors as on 31-3-2012(as per Audited Annual Accounts) (B) | 1484 |
| Debtors over-shown in Annual accounts (B - A) | 922 |

The Committee noted that the Respondent failed to provide reasonable justification for overstatement of debtors to the tune of Rs. 922 crores in his submission before the Committee.

7.1 The Committee noted that need of CDR arises when there is working capital gap or there are difficulties in repayment of term loans etc. The Committee noted that reason of working capital gap can be on account of various factors such as overstatement of Debtors/ advances, bad debts, shortage in stocks, losses in business etc. The Committee observed that CDR Proposal submitted by the Company to CDR Cell was much earlier than date of Audit Report dated 09th August 2012. CDR Proposal is acknowledged by the CDR Cell vide letter dated 02nd August 2012 as per BSE site. Hence, the Corporate Debt Re-structuring (CDR) in the Company was initiated much earlier than signing of audit report by the Respondent for Financial Year 2011-12.

7.2 As per the CDR approved on 23rd on 23rd January 2013 but acknowledged by the CDR Cell vide letter dated 02nd August 2012 as per BSE site shows working capital shortfall of Rs. 1352.29 crores. The Company had availed working capital limits from different banks primarily against stocks, debtors etc. to the extent of Rs. 1586.78 crores. This CDR proposal had been initiated much earlier than signing of audit report and accordingly it was in knowledge of auditors. In view of this it was the duty of the auditor to look into the

reasons for the shortfall of DP which was on account of overstatement of debtors, inventories and devolvement of LC's. The Respondent failed to get the adjustments made in the books of accounts in line with the requirements of AS-4 - Contingencies and Event Occurring After Balance Sheet Date.

- 7.3 The Committee noted that the Respondent despite being aware of ongoing CDR proposal for the Company chose to ignore the said fact and did not rework on the figures of inventories and debtors and had issued a clean report to the Company without adjustment of impairment in said assets as required by para 8.2 and para 13 of AS-4 - Contingencies and Event Occurring After Balance Sheet Date reproduced hereunder:

"8.2 Adjustments to assets and liabilities are required for events occurring after the balance sheet date that provide additional information materially affecting the determination of the mounts relating to conditions existing at the balance sheet date. For example, adjustment may be made for a loss on a trade receivable account which is confirmed by the insolvency of a customer which occurs after the balance sheet date.

13. Assets and liabilities should be adjusted for events occurring after the balance sheet date that provide additional evidence to assist the estimation of amounts relating to conditions existing at the balance sheet date or that indicate that the fundamental accounting assumption of going concern (i.e., the continuance of existence or substratum of the enterprise) is not appropriate."

The Committee observed with concern the gross negligence of the Respondent in not even mentioning the fact of CDR proposal having been submitted by the Company in his audit report. Hence, the Committee observed that besides non reworking of debtors and inventory figures, the Respondent was also grossly negligent for not bringing material fact known to him in his audit report.

8. The Committee observed that the Company had granted an interest free unsecured loans amounting Rs 4.26 crore to its subsidiary which as per the Respondent's report were not prejudicial to interest of the Company (para 3 (iii) of CARO report on page C-41 of prima-facie opinion). The Committee did not agree with this opinion of the Respondent in view of fact that on one hand CDR proposal was being submitted by the Company to the Banks while on other hand it was granting interest free loan to its subsidiaries. The Committee also noted that in view of this CDR proposal the Company did not have even the requisite funds for working capital and despite that the funds were given on interest free basis to the subsidiaries Companies after borrowing on short term basis from the Banks.
9. The Committee also noted that Letter of Credits (LC) of around Rs. 104 crores devolved in F.Y. 2011-12 (page C-50 of prima-facie opinion). A letter of credit devolves when a borrower defaults to honour the payment under LC to the seller upon submission of documents and the bank which has issued LC is required to make the payment. Hence in case of devolvement of LC the date on which LC gets devolved becomes the date from which the account is to be considered irregular. The Committee noted that the Respondent as auditor of the Company did not report the fact of devolvement of LC's in para (xi) in CARO (page C-42 of prima-facie opinion):

"xi .Based on our audit procedure and on the basis of information and explanation given by the management, we are of the opinion that the Company has defaulted in repayment of interest and Principal dues for the following financial institutions and Banks.

| Name of the Bank/ Financial Institution | Dues towards repayment of loan (Rs. In Crores) | Dues towards Interest (Rs. In Crores) | Total (Rs. In Crores) |
|--|---|--|----------------------------------|
| UCO Bank | 1.57 | 0.02 | 1.61 |
| IDBI Bank | 0.31 | - | 0.31 |
| CBI | - | 0.08 | 0.08 |
| IFCI Venture Capital | - | 0.19 | 0.19 |

| | | | |
|--|------|------|------|
| <i>Funds Ltd.</i> | | | |
| <i>IndiabullsFinancial Services Ltd.</i> | - | 0.29 | 0.29 |
| <i>SE Investment Ltd.</i> | - | 0.55 | 0.55 |
| <i>Sicom Limited</i> | - | 0.14 | 0.14 |
| <i>SIDBI</i> | 5.80 | - | 5.80 |

As can be seen from the above that the irregularity of Rs. 104 crores was not reported in his report though the same fact is mentioned in notes to accounts.

The Committee noted that the Respondent stated that as per the explanations given by the management to him the reasons for devolvement of LC were delayed overseas remittances by the customers against the goods exported in last quarter of financial year 2011-12. He also went on to state about the settlement deed with debtors dated 15th April 2012 by way of which discount of Rs. 160 crores was granted to the customers. The Committee noted that whereas there is no denying about the settlement deed which indicates the problem with export debtors but the point under reference is the failure of the auditor to bring on record the fact of devolvement of LC to the extent of Rs.104 crores and its non-reporting as required under CARO and accordingly the defense given by the Respondent is unacceptable.

Accordingly, the fact of irregularity in the accounts with banks on account of devolvement of LC to the extent of Rs. 104 crores remained unreported by the auditor and accordingly the Committee viewed that the auditor report to be misleading to that extent.

10. The Committee noted that in the present case there were various reasons for the auditor to examine the accounts in far greater details before expressing his opinion with regard to truth and fairness of financial statements. As discussed in the earlier paras there were cases of huge discounts to debtors and deferment of their payment for period of 5 years, over utilization of

working capital limits compared to sanctioned ones, devolvement of LC's, overstatement of debtors as per stock auditor report for CDR purposes etc.

In view of above auditor was duty bound to exercise due diligence expected of a Chartered Accountant to verify the facts which were in his knowledge as discussed earlier. The auditor having chosen to ignore to obtain direct confirmations from parties to evaluate the correctness of the figure of Debtors, non-evaluation of terms and conditions for the loans given to its subsidiaries on interest free basis despite financial strain in the Company, non-verification and valuation of the Inventories and relying only on the management certification with regard thereto, non-reporting of devolvement of LC and the consequential irregularities with borrowed accounts with the banks to the extent of Rs. 104 crores, failure to report non-compliance of AS-15 with regard to leave encashment and gratuity liability, wrong depiction of Fixed deposit (kept under lien as security against borrowing from banks) as current assets, the Committee is of the opinion that the auditor failed to act diligently and discharge his professional duties in a manner expected from a Chartered Accountant.

11. The Complainant also levelled the charge that the Respondent did not verify the going concern status of the Company. As per SA-570 the auditor is expected to ascertain the going concern status of the entity that he audits. He is expected to verify whether the assumption of going concern as taken by the management is correct or not.

In the present case there were number of factors which the auditor should have considered for the purpose of verifying the management's contentions with regard to going concern status. The net worth of the Company had eroded by Rs. 158 crores between 2010-11 to 2011-12. Also, the Company defaulted in repayment of dues to the banks and financial institutions and skipped the dividend for financial Year 2011-12. The Company showed operating loss of Rs. 158 crores and negative cash flows of Rs. 235 crores from operations. It also allowed huge discount to debtors and allowed moratorium of

5 years for repayments from them. CDR proposal was submitted to the Banks and the auditor for the purpose of CDR had revealed an overstatement of debtors to the extent of Rs. 922 crores.

In view of all above, it was for the auditor to ascertain as to how the management could treat the entity as going concern for the purpose of preparation of accounts on that basis. The Committee regrets to note that no such assessment working papers were produced by the auditor before the Committee to rebut the charge.

12. Accordingly, the Committee held the Respondent guilty on all the abovesaid charges.

CONCLUSION

13. In view of the above findings stated in above paras vis a vis material on record, the Committee in its considered opinion hold the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Items (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. (Dr.) DEBASHIS MITRA)
PRESIDING OFFICER

[approved and confirmed through e-mail]
(SHRI RAJEEV KHER, IAS RETD.)
GOVERNMENT NOMINEE

[approved and confirmed through e-mail]
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

[approved and confirmed through e-mail]
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

DATE: 11.02.2022
PLACE: NEW DELHI

प्रमाणित सत्य प्रतिलिपि / Certified true copy


सीए. सुनील कुमार / CA. Sunil Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
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