



# भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-I (2022-2023)]]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949  
READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF  
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT  
OF CASES) RULES, 2007.**

**In the matter of:**

**Shri Ajay Kejriwal**

**-Vs-**

**CA. Jitendra Prasad (M. No. 064483), Kolkata**

**[PR-262/13-DD/264/13-DC/899/18]**

**MEMBERS PRESENT:**

**CA. ANIKET SUNIL TALATI, PRESIDING OFFICER**

**SHRI JUGAL KISHORE MOHAPATRA, IAS (RETD.), (GOVERNMENT NOMINEE)**

**SHRI PRABHASH SHANKAR, IRS (RETD.), (GOVERNMENT NOMINEE)**

**CA. GYAN CHANDRA MISRA, MEMBER**

**CA. PRITI PARAS SAVLA, MEMBER**

1. That vide findings dated 26.10.2021 under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was in the opinion that CA. Jitendra Prasad (M. No.064483) (hereinafter referred to as the Respondent) was GUILTY of professional misconduct falling within the meaning of Clauses (6) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2008 was contemplated against the Respondent and communications were addressed to him thereby granting an opportunities of being heard in person / through video conferencing to make a written & verbal representation before the Committee on 15<sup>th</sup> June, 2022 and 5<sup>th</sup> July, 2022. The Committee noted that the previous hearing fixed in the above matter on 15<sup>th</sup> June, 2022 was adjourned at the request of the Respondent.

3. The Committee noted that on the date of hearing i.e., 05<sup>th</sup> July, 2022, the Respondent was present through video conferencing. The Respondent stated that he had nothing new to submit in the matter and does not want to make any submissions.

4. The Committee considered the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis submissions of the Respondent as made before the Committee.



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5. Keeping in view the facts and circumstances of the case, material on record including verbal submissions of the Respondent on the findings of the Committee, the Committee is of the view that though the professional misconduct on the part of the Respondent is established, however, keeping in view the nature and the gravity of the misconduct, the said misconduct does not qualify for a severe punishment. Accordingly, the Committee ordered that the Respondent i.e., CA. Jitendra Prasad (M.No.064483) be reprimanded.

Sd/-  
(CA. ANIKET SUNIL TALATI)  
PRESIDING OFFICER

(approved and confirmed through e-mail)  
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (RETD.))  
GOVERNMENT NOMINEE

(approved and confirmed through e-mail)  
(SHRI PRABHASH SHANKAR, I.R.S. (RETD.))  
GOVERNMENT NOMINEE

(approved and confirmed through e-mail)  
(CA. GYAN CHANDRA MISRA)  
MEMBER

(approved and confirmed through e-mail)  
(CA. PRITI PARAS SAVLA)  
MEMBER

DATE: 10.08.2022  
PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाण /  
Certified to be true copy  
अनुयायक / Deputy Secretary / Chartered Accountant  
प्रिन्सिपल ऑफ सेंट्रल रिकॉर्डिंग ऑफिस  
The Institute of Chartered Accountants of India  
असदीय नगर, शिवाजी नगर, शाहदरा, दिल्ली-110032  
ICAI Building, Shivaji Nagar, Shahdara, Delhi-110032

**DISCIPLINARY COMMITTEE [BENCH – I (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**

**Ref. No. PR-262/13-DD/264/13-DC/899/2018**

**In the matter of:**

**Shri Ajay Kejriwal**

Director, M/s Sprite Investment Pvt Ltd

1, Hltex Industrial Estate, S. V Road, Dahisar (East)

MUMBAI – 400 068

.....Complainant

**Versus**

**CA. Jitendra Prasad (M.No.064483)**

M/s A. K. Ray & Co

34-35/2/1 Sri Aurobindo Road

Sitaram Super Market

HOWRAH – 711 106

.....Respondent

**MEMBERS PRESENT:**

**CA. NIHAR N JAMBUSARIA, PRESIDING OFFICER,  
SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (RETD.) (GOVERNMENT NOMINEE),  
MS. RASHMI VERMA, I.A.S. (RETD.) (GOVERNMENT NOMINEE),  
CA. ANUJ GOYAL, MEMBER**

**DATE OF FINAL HEARING : 26.06.2021**

**PLACE OF FINAL HEARING : Through Video Conferencing**

**PARTIES PRESENT (Through VC):**

**Respondent - CA. Jitendra Prasad**

**Counsel for the Respondent - Shri Uttam, Advocate**

**BRIEF OF THE DISCIPLINARY PROCEEDINGS:-**

1. The Committee noted that on the day of final hearing held on 26.06.2021, the Complainant was not present. The Respondent along with his counsel was present. Since the Complainant was not present without any prior intimation, the Committee decided to proceed ahead with the hearing ex-parte the Complainant. Thereafter, the hearing continued from the stage as it was left in last hearing held on 20.01.2021. Thereafter, the Counsel for the Respondent made his submissions on the charges. The Committee also posed question to the Respondent. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.
- 1.1 In respect of previous hearing held in the instant matter on 20.01.2021, the Committee noted that the Complainant was not present. The Respondent along with his Counsel was present. The Respondent was put on oath. On being enquired as to whether he pleads guilty to the charges, the Respondent pleaded not guilty to the same. Thereafter, the Counsel for the Respondent made his submissions on the charges. After hearing the submissions, the Committee decided to adjourn the hearing in order to provide one more opportunity to the Complainant to present his case. With this, the hearing in the above matter was partly heard & adjourned to a later date.

**CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-**

2. As regard the background of the matter, it is noted that the Complainant Company had given a loan (ICD) of Rs.5 crores to M/s. Ruia Sons Pvt. Ltd. (hereinafter referred to as the "Company") on 6<sup>th</sup> April, 2011 for a period of 189 days @ 16.50% against the pledge of shares of Dunlop India Ltd., as well as Demand Promissory Note of the same date. The Respondent was auditor of the Company for the financial year 2012-13. Since the Company failed to make repayment on time, the Complainant firm has sold security (shares of Dunlop India Ltd.) in market to realize the loan amount. The following charges were alleged against the Respondent as under:-
  - i) The Respondent signed the Balance Sheet of M/s. Ruia Sons Pvt. Ltd. (hereinafter referred to as the "Company") for the year ending 31<sup>st</sup> March, 2013 on 15<sup>th</sup> May, 2013 wherein he had failed to disclose the short term loan (ICD) taken from the Complainant Company. The Respondent was alleged of being grossly negligent in attesting the Balance Sheet of the Company.
3. The Respondent in his written and verbal submissions before the Disciplinary Committee made the following submissions in his defence as under:-
  - 3.1 The Respondent stated that it was the responsibility of the management to prepare accounts of the Company and not of the Respondent. Therefore, the Respondent cannot be held responsible for non-disclosure of anything in the Notes to Accounts. The Respondent

stated that he had signed the balance sheet on 15th May, 2013 and the dispute started in the month of July, 2013. Hence, he was not in position to disclose the dispute between the Complainant Company and the Company.

3.2 As regard the question relating to repayment of loan by selling the shares of Dunlop India Ltd, the Respondent stated that Company had pledged the shares of Dunlop India Ltd to the Complainant Company and the Complainant Company sold these shares straight away in the market to recover the unpaid amount. The Respondent stated that the shares belong to M/s Wealth Overseas Pte. Ltd and not M/s Ruia Sons Pvt. Ltd and thus the onus of disclosing sale proceeds was with M/s Wealth Overseas Pte. Ltd. He also stated that aforesaid submissions / facts are supported by the agreement entered into between Wealth Overseas Pte. Ltd, Ruia Sons Pvt. Ltd and Sprite Investments Pvt. Ltd and from DP Statement as well

3.3 The Respondent added that he is not aware as to how much balance money was repaid to the Wealth Overseas Pte Ltd. after selling of security (shares) for Rs.9.60 crores. The Respondent reiterated that when the Complainant Company had not filed necessary forms with ROC in respect of beneficial interest in shares, then as to how the auditor would have known about the shares being offered by the Company to the Complainant Company as security. The Respondent stated that the Complainant Company was under obligation to file the necessary forms with the ROC. As per provisions of Sections 89 and 187 of the Companies Act, 2013 read with Rule 9 of the Management & Administrative Rule, 2014 (Corresponding Section 187C and Section 49 of the Companies Act, 1956), the Complainant Company should have filed declaration of the beneficial owners in shares and filed necessary forms with ROC.

3.4 As regard the disclosure of loan in the financial statement of the Company, the Respondent reiterated that instead of showing the outstanding balance as loan in the financial statement of the Company, the same was shown as trade payable in the financial statement. To a further question as to how the Respondent as auditor satisfied himself about the nature of outstanding, the Respondent stated that the Company presented the outstanding to him as trade payable.

3.5 To a further question as to whether the Company informed the Respondent that transaction with the Complainant Company is in fact a loan taken against shares of Dunlop India Limited, the Respondent replied in negative

3.7 The Respondent stated that he as auditor was not aware that outstanding amount payable to the Complainant Company was secured loan.

4. The Committee observed it is a case where amount given by the Complainant Company to the Company was not shown as loan in the financial statement for the financial year 2012-2013. It appears that since the Company failed to make repayment on time, the Complainant Company sold the security directly in the market. The Committee was agreed with the Respondent's submission that the Company did not own shares of Dunlop India Ltd which was offered as security to the Complainant Company. However, the Company was not satisfied with the Respondent's submissions that since he was not aware about the nature of transaction, he did not point out or qualify his audit report in respect of non-disclosure of loan

amount under short term borrowings. The Committee is of the view that the Respondent as auditor was required to verify the nature of material transactions shown in the financial statement of the Company and he as auditor was not supposed to blindly accept the financial statement prepared by the management at its face value without verifying the necessary documents / record.

4.1 On perusal of the agreement entered into between the Complainant Company and the Company, the Committee observed that the Complainant Company had extended Inter-Corporate Deposit of Rs.5 lac to the Company and further, there was nothing on record to show that the Complainant Company has given any consent or permissions to change the nature of outstanding amount from loan to trade payable. The Respondent could not give any clarification as to why nature of amount given by the Complainant Company was shown as trade payable in the financial statement of the Company for financial year 2012-13. Since the Respondent as auditor failed to verify the nature of material outstanding amount and relevant necessary documents before signing the financial statement of the Company, the Committee is of the view that the Respondent as auditor not only failed to obtains sufficient information to express his opinion but also he was grossly negligent in performing his professional duties as auditor of the Company, accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clauses (6), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

**Conclusion:-**

6. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of clauses (6), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

**(CA. NIHAR N JAMBUSARIA)**  
**PRESIDING OFFICER**

[approved and confirmed through e-mail]  
**(SHRI JUGAL KISHORE MOHAPATRA,**  
**I.A.S.(RETD.)), GOVERNMENT NOMINEE**

[approved and confirmed through e-mail]  
**(MS. RASHMI VERMA, I.A.S. (RETD.))**  
**GOVERNMENT NOMINEE**

[approved and confirmed through e-mail]  
**(CA. ANUJ GOYAL)**  
**MEMBER,**

**Date:-26/10/2021**

Ajay Kejriwal – Vs- CA. Jitendra Prasad (M.No.064483)

प्रमाणित सत्य प्रतिलिपि / Certified true copy  
मुकेश कुमार मिश्रा / Mukesh Kumar Mittal  
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