



# 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 M.K. Sahoo, Addl. Director, SFIO, MCA, New Delhi

-Vs-

CA. Bimal Kumar Choraria (M. No. 012259) of M/s. B.K. Choraria & Co., Chartered Accountants, Kolkata

[PR/G/265/17/DD/246/17/DC/1246/2019]

**MEMBERS PRESENT:**

CA. ANIKET SUNIL TALATI, PRESIDING OFFICER,

SHRI JUGAL KISHORE MOHAPATARA, IAS (RETD.), (GOVERNMENT NOMINEE)

SHRI PRABHASH SHANKAR, I.R.S. (RETD.), (GOVERNMENT NOMINEE),

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 inter-alia of the opinion that CA. Bimal Kumar Choraria (M. No.012259) (hereinafter referred to as the Respondent) was GUILTY of professional misconduct falling within the meaning of Clauses (6), (7) & (9) of Part I and Clause (1) of Part II 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, 2006 was contemplated against the Respondent and communication was 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. The Committee noted that the previous hearing fixed in the above matter on 1<sup>st</sup> June, 2022 had been adjourned in order to provide one more opportunity to the Respondent.

3. The Committee noted that on the date of hearing i.e., 15<sup>th</sup> June, 2022, the Respondent was not present. However, he vide e-mail dated 14<sup>th</sup> June, 2022 stated that he had nothing new to add in the above matter.

4. The Committee considered the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis submissions as made in the aforesaid e-mail dated 14<sup>th</sup> June, 2022.



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5. Keeping in view the facts and circumstances of the case, the material on record including written and verbal submissions of the Respondent on the findings of the Committee, the Committee is of the view that the professional misconduct on the part of the Respondent is established, and the ends of justice would be met if a reasonable punishment is awarded to the Respondent in this case. Accordingly, the Committee ordered that the Respondent i.e. CA. Bimal Kumar Choraria (M.No.012259) be reprimanded and a fine of Rs.15,000/- (Rupees Fifteen Thousand Only) be imposed upon the Respondent to be paid within 90 days of receipt of the Order.

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


(approved and confirmed through e-mail)  
SHRI JUGAL KISHORE MOHAPATARA, 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. PRITI PARAS SAVLA)  
MEMBER

DATE: 10.08.2022  
PLACE: NEW DELHI

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

  
नीलम पुंडीर / Neelam Pundir  
कार्यकारी अधिकारी / Executive Officer  
समुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वास नगर, शाहदपुर, दिल्ली-110032  
ICAI Bhawan, Vishwas 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/G/265/17-DD/246/17-DC/1246/19**

**In the matter of:**

**Additional Director  
Serious Fraud Investigation Office  
Ministry of Corporate Affairs, Government of India  
2<sup>nd</sup> Floor, Paryavaran Bhavan,  
CGO Complex, Lodhi Road  
NEW DELHI – 110 003.**

**.....Complainant**

**Versus**

**CA. Bimal Kumar Choraria (M.No.012259)  
4A, Canal Road, 48A, Canal Street  
KOLKATA – 700 048.**

**.....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. Durgesh Kumar Kabra, Member**

**DATE OF FINAL HEARING : 22.07.2021  
PLACE OF FINAL HEARING : Through Video Conferencing**

**PARTIES PRESENT:**

**Complainant's representative - Smt. Sumaiya Ahluwalia  
Counsel for the Complainant - Shri Kunal Rawat, Advocate**

**BRIEF OF THE DISCIPLINARY PROCEEDINGS: -**

1. The Committee noted that on the day of final hearing held on 22<sup>nd</sup> July 2021, the Complainant's representative along with Counsel was present. The Respondent was not present. In view of number of adjournments granted earlier at the request of the Respondent and the fact that the Respondent was absent from present hearing without any valid reason, the Committee decided to continue with the hearing ex-parte the Respondent. The Complainant's representative was put on oath. The Counsel for the Complainant made his contentions. The Committee also posed questions to the Counsel for the Complainant. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.

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

2. The Committee noted that the Respondent was the statutory auditor of M/s. Srishti Abha Food & Beverage Pvt. Ltd. (hereinafter referred to as the "Company" or "SAFBPL") for F/Y 2009-10. The Committee noted that the following charges were levelled against the Respondent:-

- i) It has been alleged that the Respondent did not provide any working papers during the investigation in respect of the audit of SAFBPL conducted by him.
- ii) It has been alleged that in the Balance Sheet as on 31.03.2010, loan from Directors and Body Corporates has been shown under the head 'Unsecured Loan' as Rs.10.52 lakh and Rs.28.06 lakh respectively. However, the interest accrued and due has not been shown separately.
- iii) It has been alleged that during the course of investigation the Respondent, in his statement recorded on oath dated 01.03.2016, admitted lapses during his auditorship and failed to give any adverse remark / qualifications on the said statutory violations done by the Company in their financial statements i.e. certified the said financial statements falsely in his Auditor's Report rendering him liable u/s 227 of the Companies Act, 1956.

2. In respect of above charges, the Committee noted that the Respondent did not make any submissions on merits of the case except submitting the following:-

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a) That a case was filed by ROC Kolkata before Hon'able Alipore Court, Kolkata for violation of Section 227 read with Section 233 of Companies Act, 1956 which was disposed off and fine as imposed by Hon'able Court was paid.

b) For violation of same sections complaint was filed before Disciplinary Committee of ICAI

c) A case was filed by SFIO before Hon'able Court, Kolkata. As per charge sheet, charges against him are violation of Section 227 read with Section 233 of Companies Act, 1956

In view of above, the Respondent requested to defer the hearing till disposal of case by the Court.

3. In respect of above submissions of the Respondent, the Committee is of the view that the proceedings before the Court and the Disciplinary Committee were entirely different on account of the scope of the inquiry and moreover the standard of proof before the Committee for inquiry and before the Court stand on different footing. The Committee felt that it is required to look into the professional and/or other misconduct of its member while conducting the inquiry. Accordingly, the request for adjourning the matter till the disposal of the case by the Court was not acceded to.

4. In respect of first allegation relating to non-maintenance of working papers, the Respondent in his submissions (submitted at prima facie stage) stated that he ceased to be Statutory Auditor in the year 2011 but summon of SFIO was received in 2015 for his personal appearance, and since a considerable time was already elapsed it was difficult on his part to recollect which working papers were required to be collected. He also stated that the Investigation Team did not ask for any specific paper while issuing the summons, so he could not carry any working paper with him. In this regard, it is noted that the Respondent as auditor was required to retain the documents procured during the course of audit for next 7 years i.e. till 2017, however, the Respondent stated that while the summon of SFIO was received in 2015, it was difficult on his part to recollect the working papers, which was not expected of him being a professional. Moreover, it was observed that the Respondent vide his letter dated 14.05.2018 admitted that no working papers were kept by him. The Committee is of the view that the Respondent as member of the Institute is required to ensure the compliance of the requirement of Standard on Auditing – 230 regarding retention of audit documents / working paper for a specific period but it appears that he failed to maintain his working papers for a

specified period. Accordingly, the Respondent is guilty of professional misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

5. As regard the second allegation related to non-disclosure of interest accrued and due separately, the Committee noted that the Respondent in his submission (submitted at prima facie stage) stated that it was the practice of the Company to debit the interest and credit capital account and to treat it as part of capital. He further submitted that interest was not accrued which was included in the principal amount at the year end, and in the subsequent year interest was charged on increased principal amount. In respect of above charge, the Committee noted that as per requirement of Schedule VI to the Companies Act, 1956, amount of interest accrued and due on borrowing was required to be shown separately. But instead of showing the same separately as per requirement of schedule VI to the Companies Act, 1956, the same was directly credited to the capital account and moreover, such policy of the Company of crediting the interest directly in capital account was not disclosed in the significant account policies / Notes to accounts. Hence, the Committee is of the view that the Respondent was required to qualify the same but he failed to do so. Accordingly, it decided to hold the Respondent Guilty of professional misconduct falling within the meaning of Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

6. As regard the next charge of failure to point out that proper disclosure has not been given in the financial statement, the Respondent only stated that because of nervousness due to constant questioning, he admitted unintended lapses on the part of the Company in complying with provisions of Companies Act, 1956. In this regard, on perusal of the financial statement of the Company for the financial year ended 31<sup>st</sup> March, 2010, it is noted that disclosure as required in terms of the Schedule VI to the Companies Act, 1956 and accounting standards were not given in the financial statements of the Company. The Respondent also in his letter dated 14.05.2018 admitted lapses in respect of non-compliance of the provisions of the Company Act, 1956. The Committee is of the view that the Respondent as auditor was required to check as to whether the provisions of the Companies Act, 1956 related to preparation of the financial statements has been complied with by the Company or not. Since the Respondent as auditor failed to verify the same, the Committee decided to hold the

Respondent guilty of professional misconduct falling within the meaning of Clauses (6) & (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

**Conclusion:-**

7. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct and Other Misconduct falling within the meaning of Clauses (6), (7) & (9) of Part I of Second Schedule and Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

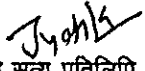
**(CA. NIHAR N JAMBUSARIA)  
PRESIDING OFFICER**

[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. DURGESH KUMAR KABRA)  
MEMBER**

Date:- 26/10/2021

  
प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover  
सहायक सचिव / Assistant Secretary  
अनुशासनत्मक निदेशालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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