



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

[PR-186/16/DD/243/2016/BOD/377/2017]

ORDER UNDER SECTION 21A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949
READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF
CASES) RULES, 2007

In the matter of:-

Shri K.R. Manjunath,
Asstt. General Manager & RM-II,
Specialized Mid Corporate Branch,
State Bank of India,
Bengaluru.

....Complainant

-Vs-

CA. B. Prashanth Hegde (M. No. 018518)
M/s. Prashanth Hegde & Co.,
Chartered Accountants,
Bengaluru.

....Respondent

[PR-186/16/DD/243/2016/BOD/377/2017]

MEMBERS PRESENT (in person):

CA. Rajendra Kumar P, Presiding Officer

Ms. Dolly Chakrabarty (IAAS Retd.), Government Nominee

Date of Final Hearing: 19th April, 2023

Place of Final Hearing: Chennai

1. The Board of Discipline vide Findings dated 2nd November, 2022 was of the view that **CA. B. Prashanth Hedge (M. No. 018518)** is Guilty of "Professional" and "Other Misconduct" falling within the meaning of Item (11) of Part-I and Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act.

2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. B. Prashanth Hedge (M. No. 018518)** and communication dated 27th March 2023 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before Board on 19th April 2023.

3. **CA. B. Prashanth Hedge (M. No. 018518)** was not present before the Board on 19th April 2023 and had sent his written representation vide letter dated 12th April, 2023. Keeping in



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view his written representation, the Board decided to consider his case for award of punishment.

4. CA. B. Prashanth Hedge (M. No. 018518) in his written representation, inter-alia, submitted as under:

(i) He had already produced the Orders of the Hon'ble Supreme Court of India staying the proceedings under Insolvency & Bankruptcy Code, 2016 against Metal Closures and also the observations that the bank was REMISS in presenting its case before the Hon'ble Supreme Court of India where a cost of Rs. 1 Lakh came to be levied by the Apex Court against State Bank of India which is unusual.

(ii) He had also produced 2 Charge Sheets filed by the CID(EOD) of Karnataka which held that State Bank of India initiated SARFAESI action with the intention to close down the business operations of M/s Metal closures which indicted the bank and its executives for breach of trust under section 409 of IPC where there could be life sentence.

(iii) He had also produced the Order of the Hon'ble High Court of Karnataka in WP No. 4429/2020 staying the complaint of State Bank of India to the Central Bureau of Investigation (CBI) Bank securities and Fraud Cell (BS&FC) which held that that the complaint is "Abuse of Criminal Justice System."

(iv) He further produced copy of the following:

(a) Order of the Hon'ble High Court of Karnataka in WP.No.24582/2021 directing DRT. Bangalore to consider the claim of Metal Closures Private Limited under SARFAESI Act, 2002 which included a claim of cost and compensation of Rs. 413.50 crores within 6 months.

(b) Order of the Hon'ble High court of Karnataka in WP.No.1770/2022 under the RDDBFI Act, 1993 to consider Metal Closures Private Limited's counter Rs. 1299 crores also within 6 months.

(c) Order of the Hon'ble High court of Karnataka in WP.No.44069/2018 (GM-RES), WP.No.28058/2018 and WP.No.50711/2018 quashing the declaration of the Company and its Directors as wilful defaulters, full order has still not been released. However, the case status shows that the petition is allowed.

(d) Order of the Hon'ble High court of Karnataka in WP.No.18864/2021 holding that the State Bank of India is Co-accused in cases where CC No.11073/2018 relevant to FIR No.580/2016 filed by the CID (EOD).The bank is vicariously liable for the loss in respect of the fraud, misappropriation, theft committed by the banks executives.

5. The Board has carefully gone through the facts of the case alongwith the written representation of CA. B. Prashanth Hedge (M. No. 018518).



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6. As per the Findings of the Board as contained in its report, the Respondent signed several documents and correspondences with banks relating to day to day operations of the company not only as Chairman of the company but also as the Managing Director/Authorised Signatory of the Company. The Board was not convinced with the submission of the Respondent that many documents and letters purportedly written by the Respondent were fabricated by Mr. Bhaskaran and that he was medically unfit during 2014 due to which he could have overlooked the designation carried in the said communication as apart from the letters there were complaints made to police/emails/application to DRT wherein the Respondent's designation had been specified as Managing Director and that the Respondent is a qualified and experienced Chartered Accountant and thus, it was expected of him to be aware of the importance of his signature and should be careful of where the same is being used and sign only after having been completely satisfied. The Board viewed that it is conclusively proved that the role of the Respondent in the alleged company clearly exceeded beyond that of the Director Simplicitor and he ought to have sought the prior permission of the Council before engaging himself in any business or occupation other than profession of Chartered Accountant. The Board was also of the view that observations in the Forensic report clearly brought out not only the role of the Respondent in the management of the day-to-day affairs of the company but also using his professional acumen for undesirable purposes which is clearly unbecoming of a Chartered Accountant. Accordingly, the Board held the Respondent Guilty of Professional and Other Misconduct falling within the meaning of Item (11) of Part I and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act 1949 read with Section 22 of the said Act.

7. Thus, upon consideration of the facts of the case, the consequent misconduct of CA. B. Prashanth Hedge (M. No. 018518) and keeping in view his written representation before it, the Board imposed a Fine of Rs.50,000/- (Rs. Fifty Thousand Only) on CA. B. Prashanth Hedge (M. No. 018518).

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, ret'd.)
(Government Nominee)

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

मीनू गुप्ता / Meenu Gupta
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICA Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

DATE: 22-05-2023

CONFIDENTIAL

BOARD OF DISCIPLINE

Constituted under Section 21A of the Chartered Accountants Act 1949

Findings under Rule 14(9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No. : PR-186/16/DD-243/2016/BOD/377/2017

CORAM (in person):

CA. Prasanna Kumar D., Presiding Officer

Ms. Dolly Chakrabarty (IAAS, ret'd.), Government Nominee

CA.(Dr.) Raj Chawla, Member

In matter of:

Shri K.R. Manjunath, Asstt. General Manager & RM-II,
Specialized Mid Corporate Branch State Bank of India,
Bengaluru

.....Complainant

-Vs-

CA. B. Prashanth Hegde (M. No. 018518) of M/s. Prashanth Hegde & Co.,
Chartered Accountants,
Bengaluru

.....Respondent

DATE OF FINAL HEARING : 05th July 2022

PLACE OF FINAL HEARING : New Delhi/ through video conferencing

PARTIES PRESENT (through Video Conferencing):

Representative from the Complainant Bank : Ms. P. Chitra Nirmala, Advocate

FINDINGS:

Brief background of the case:

1. The Complainant Bank, being lead bank had provided Comprehensive Credit facilities to M/s Metal Closures (P) Ltd (hereinafter referred to as the 'Company') under consortium agreement aggregating to Rs. 183.65 crores with other banks. The account of the Company was classified as NPA as per RBI norms. Based on the decision of the consortium, the Forensic audit of accounts of the Company was conducted which revealed some adverse features on the books of accounts maintained by the Company. The Respondent was functioning as Managing Director and Chairman of the said Company.

Charge Alleged:

2. The Complainant has alleged that the Respondent while functioning as Managing Director of the Company as well as holding authorised signatory powers for all the bank accounts of the said Company has simultaneously continued in the position as a partner with the Respondent's firm.

Brief of Proceedings held:

3. During the hearing held on 05th July 2022, the Board noted that the representative from the Complainant Department was present before it through video conferencing. The Board also noted that the Respondent was not present before it despite the due service of the Notice for hearing. The Board noted that the Respondent vide letter dated 30th June 2022 sought for postponement of the hearing by 4 months. Vide email dated 4th July 2022, the Respondent's attention was drawn to the email dated 20th June 2022 wherein he was informed that the Board has provided him final opportunity to present his case on 05th July 2022 and in case he fails to appear before it on the said date, the case shall be decided ex-parte. Since the Respondent chose not to be present before the Board, the Board decided to proceed ahead with the hearing in the case. The representative of the Complainant Department did not submit anything new and stated that they are in agreement with the Findings made by the Director (Discipline) in the Prima Facie Opinion and requested the Board to confirm the said Prima Facie Opinion and pass appropriate Orders. Thus, on consideration of the documents and submissions on record, the Board concluded the proceedings in the case.

Brief of the Submissions of the parties to the case:

(a) Respondent:

4. The Respondent in his defence, inter-alia, stated as under:-
 - 4.1 The original complaint in Form-1 under sub rule 1(3), Rule 3 is ostensibly, signed by one Mr. K.R. Manjunath AGM & RM- 11, SBI, SMCB, Bangalore but actually the Form is executed by Mr. K. Manjunath Senior Officer in charge of the Respondent's account in Mid Corporate branch. Mr. K.R. Manjunath AGM & RM- 11, SBI, who ostensibly signed the complaint, never handled the Company's account any time from 2007 till the date of initiation of Sarfaesi action by SBI in 2014 and even in 2015 when the company had completely closed down its operations. It appears that he joined the Mid Corporate Branch, which handled their account, only after the account was migrated to Stressed Assets Management (SAM) Branch. Therefore he is not supposed to be aware of the company's affairs with SBI. It is actually Mr. S. Bhaskaran who was the DGM of Mid Corporate who is the 'De facto' Complainant and is actually behind the complaint for personal reasons who also has been chargesheeted now by the CID (EOD) for illegal

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Sarfaesi action and criminal breach of trust, conspiracy as per Section 120(B), 403, 408, 409, 447, 381, 420 r/w 37 of IPC.

- 4.2 As per the complaint of Mr. K.R. Manjunath dated 15.07.2016, it is stated that in annexure to point no.5 of Form -1 that the Respondent was the Managing Director of the company. He has not placed any proof to confirm that the Respondent was functioning as a Managing Director of the company. Some of the documents he presented pertain to 2015 which is after the company stopped its operations and almost all the employees left the company due to the illegal SARFAESI action. The Respondent was admitted to the psychiatric ward of St. Johns Medical College with severe depression episode owing to the illegal takeover of the unit under the SARFAESI Act. Thereafter, on discharge he was working with the help of some part time employees who exactly did not know the Respondent's designation and it is possible they have mentioned his designation as Managing Director. As the factory and its office were not available for the use of the Respondent, there were no regular employees of the company and the Respondent's physical and mental condition was not in the normal state. It is possible that he would have overlooked the designation carried in the communication.
- 4.3 In the matter of authorization to complain to the Institute regarding Misconduct of any of the matter of the Institute, Mr. Bhaskaran in his letter dated 09.09.2016 had clarified that Mr. K. R Manjunath was permitted to sign the complaint in view of Regulations 76 (1) and 77 of the SBI's General Regulations of 1955. But, these Regulations permit the Officer in charge to sign all documents, instruments, accounts, letters, advices etc. connected with the current or authorized business of the bank. However, the complaint made by the Officer is not the normal banking business of SBI. Therefore, the complaint was not in order. On this very point the Disciplinary Directorate of the Institute vide letter dated 29.08.2016 had requested for a Board Resolution in original authorizing the Complainant to file the instant complaint with the Institute or certified true copy of the General Resolution of Power of Attorney, authorizing the Complainant to file the complaint on behalf of State Bank of India, Bangalore. However, no such resolution has ever been provided by SBI. Yet, the Institute had proceeded to entertain the Complaint.
- 4.4 The regular Charge-sheet in CC no. 3274612018 has been filed before the 1st Additional Chief Metropolitan Magistrate Court, Bangalore on 13.12.2018. The relevant Charge-Sheet has relied on report of State Forensic Science Laboratory, Bangalore dated 10.08.2018 where it was found that the banks have relied or themselves provided imitation forgery of Respondent's signatures in cheques and other documents submitted to the banks. It is quite reasonable to expect that Mr. S. Bhaskaran has produced some documents ostensibly appearing to be carrying

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Respondent's signatures to the Institute in the complaint and therefore cannot be taken as correct and authentic.

- 4.5 The above referred charge-sheet has named Mr. S. Bhaskaran as accused no.7. He has been accused on 12 different counts. This is in respect of the complaint made by the Respondent on 22.07.2015 before the Ashok Nagar Police, Bangalore. Thus it should be clear that this is the very reason why the said Mr. S. Bhaskaran was trying his best to make a complaint against the Respondent through his subordinate Mr. K.R. Manjunath AGM and RM-II Specialized Mid Corporate Branch State Bank India, Bangalore under section 21 of the Chartered Accountants Act, 1949.
- 4.6 The general resolution of the bank in the notice dated 27.03.1987 refers to powers of the various grades of officers to sign all the documents instruments accounts, letters and advises etc. on behalf of the bank but does not authorize him to make complaint which requires a specific authorization which has not been complied.
- 4.7 Respondent's position in the company was only as Chairman of the Board. He has been the director of the company ever since incorporation on 07.12.1977 and no declaration before the ROC was ever made by the company of his being a 'Managing Director' as alleged by the complainant. The first directors of the company as per the Memorandum and Articles of Association are as under :
- Mr. B. Prashanth Hegde
Mr. N. Kishenlal Hegde
Mr. N. Ramaswamy
Mr. P. Damodaran
Mr. T. P. Gopala Rao
Mr. N. Kishenlal Hegde who is Respondent's cousin was the Managing Director of the company.
- 4.8 The important question that arises is whether Respondent as a practicing Chartered Accountant engaged myself in any business or occupation. The Respondent did not carry out any business or occupation nor has the complainant established anything in this regard. Nothing in Clause 11 disentitle a chartered accountant from being a director of company not being a managing director and whole time director. The Respondent was only a director and not a managing director or whole time director of a family owned company which was mostly driven by senior and experienced employees. The 1st employee who joined the company during 1977 is still the main employee under the designation of Vice President (Operations).
- 4.9 The complainant has produced some documents where the Respondent has signed some company communications and accounts of the company as authorized representative. This does not make him a managing director of the company nor it can be said that he was engaged in business or occupation. Apart from the same the investigation of the CID has revealed that many letters and documents purportedly written by the Respondent was indeed fabricated by Mr. Bhaskaran. The banker when asked to produce documents suspected by the company as fraud came ahead stating

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that 'documents are destroyed by rodents'. The bank also refused to part with original documents on the ground that they were protected under Banker's Books of Evidence Act, 1891 from production of books.

- 4.10 The company believed that Mr. S. Bhaskaran was trying to evade the production of documents taking untenable excuses which point was noted by the Presiding Officer of the Debt Recovery Tribunal, Bangalore. Therefore, the complaint against the Respondent has to be discounted straight away as part of a criminal conspiracy and also as a personal vendetta against him for establishing his fraud.
- 4.11 The complainant also relied on the Forensic audit report of Risk and Richter dated 17.03.2016 where he has made number of observations which absolutely are false and motivated. The Respondent completely disproved the allegations of the Forensic auditor before the CID. The very purpose of mandating a Forensic audit was to obtain a tailor made report implicating the Respondent in the alleged fraud etc. This theory has been completely negated by the CID chargesheet where the 'de facto' complainant Mr. S. Bhaskaran was found guilty on multiple counts as Accused-3.
- 4.12 The 'de facto' complainant Mr. Bhaskaran, DGM is one of the main accused in the illegal SARFAESI action of the SBI which caused a loss of Rs. 78.50 Crores to the company and which had an effect of closing down all the 3 manufacturing plants employing 600 employees in respect of which the CID (Economic Offence Division) of Karnataka have filed the charge-sheet "A" No.4/2018. He is also being investigated in another FIR 0486/2015 by the same agency. He is likely to be chargesheeted even in this case. The CID investigation has revealed that Mr. S. Bhaskaran was the DGM of Mid corporate branch and has with the criminal intent and in criminal breach of trust illegally invoked the SARFAESI Act against the company with the sole purpose of closing down its operations once and for all because he thought that he may be implicated in the fraud reported by the company before invoking the SARFAESI action. He moved a petition before the Karnataka High Court under section 482 of CrPc which was dismissed.
- 4.13 The company has opposed the SARFAESI action by the banks on the ground that its accounts were never NPA which was declared on 28.05.2014. In fact SBI had mandated a viability study of APITCO which had given full credit to the company and had vouched that the company's profitability would substantially increase once the composite closure business is commissioned and recommended enhancement in working capital limits which was denied by the company as the fraud was already detected by the company. In the SARFAESI appeal before the DRT company has claimed cost and compensation of Rs. 412 Crores under section 19 of the SARFAESI Act 2002 for illegal SARFAESI action. It is a contention of the company that the above said claim and the counter claim made by it in the OA filed by the bank, if taken into account, the company does not owe any amount to the bank.
- 4.14 Now, the Respondent is the Managing Director of the company which position he took up after surrendering his certificate of practice w.e.f 01.04.2016. He is also no more a partner of the firm M/s Prashanth Hegde & Co.

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(b) Complainant:

5. The Complainant in his submissions, inter-alia, stated as under:-
- 5.1 The Respondent himself has admitted in the written statement that he has enrolled with Institute of Chartered Accountants of India vide Membership No. 018518 and obtained the Certificate of Practice on 28.02.1976 and was practicing ever since till recently. He has further admitted that fact that he was the partner in the Partnership firm M/s. B. Prashanth Hegde & Co., until 07.04.2016. The Respondent further contends that now he is the Managing Director of the company which position he took up w.e.f 01.04.2016 after surrendering COP is totally incorrect, as he has been always acting as the Managing Director of the company even before 01.04.2016.
- 5.2 The claim of the Respondent that he always functioned and signed the statutory documents as Chairman of the Company and has not acted as Managing director is false and also enclosed certain documents signed by the Respondent as the Managing Director of the company before 1st April 2016.
- 5.3 Regarding the observation that complaint has been filed by a person who has not handled the accounts of company is irrelevant and factually incorrect. As the officials in SBI are subject to laid down service conditions in which transfers in and out of the branches are normal. Whoever assumes the charge need to continue the task which has been left over by his/her predecessor. Accordingly, the complaint has been filed by the new incumbent which is very much in order. The Respondent's claim that Regulation 76(1) and 77 of SBI General Regulations 1955 permit the Officer in charge to sign all Documents, instruments, accounts, letters advices etc. connected with current and entrusted business of the Bank only, and the complaint made by the Officer is not the normal banking business and therefore the complaint is not in order is a flimsy claim conveniently neglecting Regulation 77 of SBI General Regulation 1955 which states that "*Plaint, written statements, petitions and applications may be signed and verified and all other documents connected with legal proceedings may be made and completed on behalf of State Bank of India by any officer or an employee empowered by or under regulations 76 to sign documents for an on behalf of State Bank*". As such, the Officials of SMGS IV & above are authorized to take appropriate action in respect of all matters coming in discharge of functions of the post and accordingly, the Officials concerned have discharged their duties assigned to them by the Bank. Also, all the Officials act and take appropriate action which deems fit in official capacity and 'NO' personal vengeance is involved in any of their actions. The only intention is to ensure that Bank is not put to loss on account of any improper act by the customer. Hence, blaming a particular Official is not correct. Also, the

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Respondent has filed a false complaint with CID against various officials of Bank on their individual capacity without any proof against Bank Officials which is baseless.

- 5.4 As far as the allegations against Forensic Auditor is concerned, it would be appropriate if the reply from the Forensic Auditor is sought for, as Bank Officials did not have any role to play other than allotting the work of Forensic Audit, as per the extant instructions of the Bank and Reserve Bank of India.
- 5.5 The letter dated 14th Dec 2018 has been sent by the Respondent with ulterior motive to divert the issue raised in the complaint. The Rules do not provide for submitting further statements at this point of time.
- 5.6 The criminal cases referred in the letter dated 14th Dec 2018 has no relevance as far as the allegation of professional misconduct committed by the Respondent is concerned. The issue of Professional Misconduct by the Respondent needs to be decided on merits.
- 5.7 The complaint has been filed by the State Bank of India, in their official capacity. The Respondent is trying to paint it as the personal complaint of the officials of the Bank. The same is not correct.
- 5.8 The criminal cases referred in the letter dated 14th Dec 2018 have been instituted by the respondent against the officials of the Bank in response to their actions to recover the dues of the Bank in their official capacity. They are being defended legally in Courts. The Hon'ble High Court of Karnataka has vide Order dated 10.12.2018 has stayed the proceedings in one case bearing no. CRL.P No.6885/2018.

Observations of the Board:

6. On consideration of the documents and submissions on record, at the outset, the Board noted that the Respondent has raised certain technical objection with respect to the admissibility of the complaint. In this regard, the Board held that the complaint had been duly scrutinised and due compliance of the necessary provisions of the Chartered Accountants(Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules 2007 had been ensured prior to its registration. Further, the Board was of the view that in the instant case, the conduct of the Respondent in the circumstances entailed in the complaint as a chartered accountant was being examined based on the documents and submissions on record. The Director(Discipline) is duly empowered to investigate any complaint/ information received against any Member of the Institute in terms of the provisions of the Chartered Accountants Act, 1949 read with CA Rules, 2007. The locus standi of the Complainant is not considered material in respect of the said examination of the conduct of the Respondent.
- 6.1 The Board also took into consideration the following observations of the Honorable Delhi High Court given in its Order dated 1st August 2019 passed in WP(C) 8071/2019 while arriving at the said view:
"27. It is also relevant to note that the proceedings before the Disciplinary Committee/Board of Discipline are in nature of Disciplinary proceedings to ensure that

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members of ICAI maintain professional standards and do not conduct themselves in a manner which brings disrepute to the profession of Chartered Accountancy. The disciplinary proceeding is principally between ICAI and its members. A complainant merely acts as a relater party that provides information relating to any misconduct on the part of a Chartered Accountant. Although a complainant has a right to be participate in the proceedings; disciplinary proceedings cannot be viewed as a private dispute between the complainant and the Chartered Accountant. It is also true that in most cases, the complainant may also have suffered on account of professional or other misconduct on the part of a Chartered Accountant; however, that does not change the nature of the disciplinary proceedings.

28. The conduct of ICAI's member (a Chartered Accountant) is to be evaluated by the concerned authorities of ICAI. The object is to ensure that its members measure up to the standards as set by ICAI for continuing as its member. As stated earlier, the matter is, essentially, between ICAI and its members. This is also the rationale for not providing any appellate remedy to the Complainant against the decision of the concerned authorities in terms of Section 22G of the Act. This right is only available to an aggrieved Member of ICAI. "

- 6.2 As regard the charge alleged against the Respondent that the Respondent was engaged in any business or occupation other than the profession of Chartered Accountant unless permitted by the Council, the Board observed that the intent behind having the restraint provided under Item (11) of part I of the First Schedule as stated hereunder has been expressly provided in the Code Of Ethics:
"The objective is to restrain members from carrying on any other business in conjunction with the profession of accountancy and combining such work with any business which is not in keeping with the dignity of the profession. Another reason for the introduction of such prohibition is that a Chartered Accountant, if permitted to enter into all kinds of business, would be able to advertise for his other business and thereby secure an unfair advantage in his professional practice."
- 6.3 The Board, thereafter, took into view Regulation 190A of Chartered Accountants Regulations, 1988, which deals with the provision for Chartered Accountants in practice not to engage in any other business or occupation, and the same reads as below:
"A Chartered Accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council".
- 6.4 The permissible categories of engagements approved by the Council under Regulation 190A, are available in Appendix No. 9 to the Chartered Accountants Regulations, 1988. Further, a member in practice shall be permitted to be a Director (Director Simplicitor), Promoter/Promoter Director, Subscriber to the Memorandum and Articles of Association of any company including a Board Managed Company. Further, the expression 'Director Simplicitor' means an ordinary/simple Director. A Member in practice is permitted generally to be a Director Simplicitor in any Company including a Board-Managed Company and as such he is not required to obtain any specific

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permission of the Council in this behalf irrespective of whether he and/or his relatives hold substantial interest in that Company. Further, there is no bar for a member to be a Promoter/Signatory to the Memorandum and Articles of Association of any Company. There is also no bar for such a promoter/signatory to be a Director Simplicitor of that Company irrespective of whether the objects of the Company include areas which fall within the scope of the profession of Chartered Accountancy. Therefore, members are not required to obtain specific permission of the Council in such cases.

- 6.5 Against the said background, the Board noted that the Respondent was the director of the company since the date of its incorporation i.e. 7th December 1977. He was one of the subscribers to the MOA and AOA of the company and one of the first directors of the company. He was also holding Certificate of Practice since 28th February, 1976. He retired from the partnership firm with effect from 7th April 2016. His Certificate of Practice was cancelled with effect from 20th September 2016. The Board further noted that the following documents had been signed by the Respondent during the period 28th February, 1976 to 20th September 2016 :

Date of Communication(via letter/email)	Particulars of Communication
28 th March 2007	Application Form for Credit facilities of over Rs. 1 crore signed by the Respondent on behalf of the company with his designation as the Chairman filed with SBI.
14 th June 2007	Letter of Undertaking signed by the Respondent as the Chairman of the company undertaking on behalf of the promoters, directors and relatives of directors of the Company that the unsecured loans availed by the Company from them to the extent of Rs.149.50 lakhs will not be withdrawn by them till the continuation of Credit Facility or the express written permission for the withdrawal of the same from the financial institution.
10 th July 2007	Letter addressed to the Branch Manager, SBI, SSI Branch, Bangalore for sanction of credit limits signed by the Respondent as the Chairman of the company.
30 th July 2007	Letter addressed to the Branch Manager, SBI, SSI Branch, Bangalore for sanction of credit limits signed by the Respondent as the Chairman of the company.
10 th December 2007	Letter addressed to the Chief Manager, SBI, SSI J.P. Nagar Branch, Bangalore for adhoc limit of Rs. 4 crores signed by the Respondent as the Chairman

	of the company.
10 th December 2007	Letter addressed to the Chief Manager, SBI, SSI J.P. Nagar Branch, Bangalore for release of term loan signed by the Respondent as the authorised signatory of the company.
12 th December 2007	Letter addressed to the Assistant General Manager, UCO Bank, Mid Corporate Branch, Bangalore for takeover of advances and letter of authority signed by the Respondent as the authorised signatory of the company.
30 th January 2009	Letter addressed to the Assistant General Manager and Relationship Manager, SBI, Bangalore regarding sanction of term loan of Rs. 24 crores signed by the Respondent as the Managing Director of the company.
14 th June 2010	FEMA Declaration cum Undertaking to the Assistant General Manager, SBI signed by the Respondent in the capacity of authorised signatory of the company.
14 th June 2010	Form and Application for remittance u/s 195 of the Income Tax Act 1961 signed by the Respondent in the capacity of authorised signatory of the company.
14 th June 2010	Letter addressed to the Chief Manager, SBI, SSI J Branch, Bangalore for request for TT for GBP 1,74,000/- towards advance remittance signed by the Respondent as the authorised signatory of the company.
1 st September 2010	Letter addressed to the Assistant General Manager, SBI, Bangalore regarding acceptance of documents signed by the Respondent as the authorised signatory of the company.
22 nd February 2013	Letter addressed to the Assistant General Manager & Relationship Manager, SBI, Bangalore regarding request for statutory payment of Rs. 9.10 Lakhs signed by the Respondent as the authorised signatory of the company.
22 nd January 2015	Letter addressed to the Chief Manager, Corporation Bank, Bangalore regarding the Current account no. CBCA 01000232 signed by the

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	Respondent as the Chairman of the company.
12 th February 2015	Letter addressed to UCO Bank, Bangalore regarding Current account no. 393 wherein the Respondent signed in the capacity of the Managing Director of the company.
19 th February 2015	Letter addressed to Chief Manager, Corporation Bank, Bangalore regarding Current account no. CBCA 01000232 wherein the Respondent signed in the capacity of the Managing Director of the company.
16 th July 2015	Letter addressed to the Station House Officer, Bangalore with the subject Cheating and fraud signed by the Respondent as the Managing Director of the company.
27 th July 2015	Letter addressed to the Sub-Inspector of Police, Bangalore with the subject FIR no. 486/2015 signed by the Respondent as the Chairman of the company.
21 st September 2015	Letter addressed to Corporation Bank regarding serious irregularities in their CC account wherein the Respondent signed in the capacity of the Managing Director of the company.
22 nd September 2015	Email from the registered email id of the company to UCO Bank wherein the Respondent was designated as the Managing Director of the company.
22 nd September 2015	Letter addressed to UCO Bank regarding serious irregularities in their CC account wherein the Respondent signed in the capacity of the Managing Director of the company.
22 nd September 2015	Letter addressing to UCO Bank in the capacity of Managing director of the company.
23 rd September 2015	Email from the registered email id of the company to Corporation Bank wherein the Respondent was designated as the Managing Director of the company.
25 th September 2015	Letter addressed to Chief Vigilance Officer, SBI, Mumbai regarding serious irregularities in their CC account no. 30243201764 wherein the Respondent signed in the capacity of the Managing Director of

	the company.
25 th September 2015	Letter addressed to Chief Vigilance Officer, SBI, Mumbai regarding serious irregularities in their CC account no. 30243201764 wherein the Respondent signed in the capacity of the Managing Director of the company.
17 th November 2015	Letter addressed to SBI regarding SARFAESI action of Consortium bankers from the company wherein the Respondent signed in the capacity of the Managing Director of the company.
January 2016	Application filed before DRT Court Bengaluru wherein the Respondent represented the company as its Managing Director and signed the Application as Managing Director of the company.

- 6.6 The Board also noted that in the Consortium meeting held on 21st June 2014 at SBI, Bangalore, the Respondent was present and he signed the attendance sheet as the Chairman of the company.
- 6.7 The Board also noted even in the copy of the Final Report filed in FIR no. 0486/2015 dated 22nd July 2015, the Respondent as the Complainant has been named as the Managing Director of the company. The Charge Sheet dated 7th December 2018 also states that as per company Board resolution dated 14th April 2008, the Respondent was only the authorised signatory to sign any cheques and RTGS Forms and Letter of Credit. The Board also noted that in the List of Witnesses attached to the said Charge Sheet, the name of the Respondent is specified as CW -1 and also stated that he is the MD of the company. Also, in the copy of the Final Report no. A/4/2018 dated 5th May 2018 filed in Crime no. 580/2016 dated 23rd September 2016, the Respondent as the Complainant has been named as the Managing Director of the company. The Board also noted that in the List of Witnesses attached to the said Charge Sheet, the name of the Respondent is specified as CW -1 and also stated that he is the MD of the company.
- 6.8 The Board further noted that the Respondent authenticated the Financial Statement of the company for the F.Y. 2009-10, 2011-12 to 2014-15 in the capacity of the Chairman alongwith another director of the company. He was also named as a Key Management Personnel of the company in the Notes to Accounts attached to the audited Financial Statement of the company for the F.Y. 2009-10, 2011-12, 2012-13. He held more than 70 % of the shares of the company as on 31st March 2012, 31st March 2013, 31st March 2014 and 31st March 2015.
- 6.9 The Board thus, observed that the Respondent had signed several documents and correspondences with banks relating to day to day operations of the company not only as Chairman of the company but also as the Managing director/Authorised

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Signatory of the company. The Board was not convinced with the submission of the Respondent that many documents and letters purportedly written by the Respondent were fabricated by Mr. Bhaskaran and that he was medically unfit during 2014 due to which he could have overlooked the designation carried in the said communication as apart from the letters there were complaints made to police/emails/application to DRT wherein the Respondent's designation had been specified as Managing Director and that the Respondent is a qualified and experienced Chartered Accountant and thus, it was expected of him to be aware of the importance of his signature and should be careful of where the same is being used and sign only after having been completely satisfied.

6.10 Considering the attendant circumstances, the evidence put forth during the proceedings and the submissions on record, the Board, viewed that it is conclusively proved that the role of the Respondent in the alleged company clearly exceeded beyond that of the Director Simplicitor and he ought to have sought the prior permission of the Council before engaging himself in any business or occupation other than profession of Chartered Accountant. Accordingly, the Respondent is held Guilty in respect of the Charge alleged.

6.11 The Board also noted a copy of the Forensic Report dated 17th March 2016 was annexed with the complaint wherein it had been provided as under:

"In the Joint Lenders' Forum meeting held on 16.08.2014, the promoter of MCPL Mr. Bannampalli Prashant Hegde did not submit any viable action for settling the outstanding loan amounts. He expressed his inability to revive the unit. The Consortium banks, one by one, initiated action against the company under SARFAESI....."

The following are the irregularities pointed out by Mr. Bannampalli Prashant Hegde:-

- 1. Excess payment to the tune of 12.42 crores in the LCs established with SBI.*
- 2. Also in respect of certain LCs with SBI, the Bill of Lading for stock worth Rs.4.42 crores was endorsed to the order of the shipping line.*
- 3. Out of the Rs.66.85 crores of LCs established with Punjab National Bank, he pointed out that only the LCs for an amount of Rs.6.36 crores established during 2010-11 was the approved Letter of Credit.*
- 4. In respect of the LC for Rs.2.33 crores opened with Punjab National Bank in favour of the supplier Tinko, Korea, he reported that the Bill of Lading has been manipulated in favour of Maersk Shipping Line instead of the Bank.*
- 5. In respect of LCs established with Corporation Bank, he reported that the total amount debited to the account was higher by Rs.23.14 crores compared to the Letter of Credit opened.*

The reported irregularities have not occurred at a single point in time rather these events described by him have occurred over an extended period of time. Moreover, these events have not occurred during the fag end alone of the company's operation

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for Mr. Bannampalli Prashant Hegde to take timely action to revert such irregularities in future. As a Chartered Accountant at the helm of affairs of the company, Mr. Bannampalli Prashant Hegde is qualified both by profession and experience to detect at least some of these irregularities and could have taken timely action by counter-checking the transactions.....

In fact, during our interview with Mr. Mahesh Hegde, CFO of MCPL, he stated that Mr. Bannampalli Prashant Hegde was aware of the entire transactions carried out by the company. Mr. Mahesh Hegde also informed during our interview with him that Mr. Bannampalli Prashant Hegde resorted to structure transactions in a way to pave for utilisation of the company's funds for the purposes designed by him. One such method was the creation of the B.P. Holding Group of Accounts. We even put it to Mr. Bannampalli Prashant Hegde during our interview with him about the said group of accounts. He categorically stated to us that there wasn't any real company in existence that is representative of the accounts. The accounts were created by him purely for taking care of some transactions that were outside the business activity of MCPL.

For Mr. Bannampalli Prashant Hegde to remove funds from MCPL and repay it on a later date to MCPL, he would have the knowledge of the fund position in MCPL. Moreover as the owner of the company, Mr. Bannampalli Prashant Hegde took all the critical decisions of the company which included its funding, enlisting new customers and expansion. So, it clearly shows that the transactions in LCs of the magnitude pointed out Mr. Bannampalli Prashant Hegde cannot be outside his knowledge.

Mr. Bannampalli Prashant Hegde also added that whatever amounts he had diverted from MCPL through the said group of accounts were subsequently repaid to the company. But his argument doesn't stand the test of sanctity since had the same funds been made available to the company at the point of time --- it was diverted, the company would have benefited:-

1. *From not hindering regular operations and thereby revenue generation and*
2. *Avoiding incurring of additional interest cost.*

From the foregoing discussion, we are of the opinion that Mr. Bannampalli Prashant Hegde was adopting selective ignorance on issues that had a major adverse impact on the company. Also apparent during our interview with him was the diversionary tactics adopted by him in the manner of pre-empting enquiries into his role and directing attention to the CFO. This is evident in some of the instances reported later in this report."

- 6.12 Although the Complainant in Point 5 of Form 'I' has alleged only with respect of Item (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949, however, since a copy of the said report had been shared with the Respondent alongwith Form 'I' and the Respondent had also referred to the same in his further written statement,

the Board examined the conduct of the Respondent in that respect also. The Board was of the view that observations in the Forensic report clearly brought out not only the role of the Respondent in the management of the day to day affairs of the company but also using his professional acumen for undesirable purposes which is clearly unbecoming of a Chartered Accountant. Accordingly, the Respondent was also held guilty of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act 1949 read with Section 22 of the said Act.

CONCLUSION:

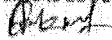
7. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (11) of Part I and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

Sd/-
CA. PRASANNA KUMAR D. Ms. DOLLY CHAKRABARTY (IAAS,retd.)
(PRESIDING OFFICER) (GOVERNMENT NOMINEE)

Sd/-
CA.(Dr.) RAJ CHAWLA
(MEMBER)

DATE: 02nd November, 2022

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



अरुण कुमार / Arun Kumar
कार्यकारी अधिकारी / Executive Officer
अनुशासन/नियंत्रण विभाग / Disciplinary Directorate
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