



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

[PR/-48F/2016/DD/228/16/BOD/513/2019]

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 Rajashekara N.,

Superintendent of Police,
CBI, BS & FC, Bangalore.

.....Complainant

-Vs-

CA. G. Kumar (M. No. 025885),
Chennai.

....Respondent

[PR-48F/2016/DD-228/2016/BOD/513/19]

MEMBERS PRESENT(in person):

CA. Rajendra Kumar P, Presiding Officer

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

Date of Final Hearing: 19th April, 2023

Place of Final Hearing: Chennai

1. The Board of Discipline vide Findings dated **02nd November 2022** was of the view that **CA. G. Kumar (M. No. 025885)** is 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.

2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. G. Kumar (M. No. 025885)** 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.



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3. **CA. G. Kumar** was not present before the Board on 19th April 2023 and had sent across his written representation dated 28th March 2023. Keeping in view his written representation, the Board decided to consider his case for award of punishment.

4. **CA. G. Kumar** in his written representation, inter-alia, submitted as under:

- (i) His position as Non-Executive Director of Deccan Chronicle Holding Limited (DCHL) was based on the trust and confidence reposed on the promoters of the company and other Co- Professionals associated with the Organization.
- (ii) It was the initial period of implementation of Audit Committee and connected provision. The Provision of Section 292A of the Companies Act were being followed in a limited manner in various companies and hence, the Respondent did not fully comply with the said Section. Moreover, he was given confidence that nothing could go wrong, and it was a common practice to sign the Minutes of the Meeting without physically attending the same.
- (iii) Considering the experience and knowledge of other Co- Professional involved in the Statutory Audit, the Respondent accepted the position as Non- Executive Director and held the post of Chairman of Audit Committee.
- (iv) He did not receive any compensation in any form on account of holding this position during the entire tenure, which he held based on the mutual trust placed on the erstwhile management and professional team that was running the operations then.
- (v) The episode had permanently impacted his health in the form of palpitation issues that lead to perineal heart ailment.

5. The Board has carefully gone through the facts of the case along with the written representation of **CA. G. Kumar**.

6. As per the Findings of the Board as contained in its report, the Respondent as a Chairman of the Audit Committee and independent Director of the Company did not comply with the provisions of the Companies Act 1956 and failed in performance of his duties as he did not attend the concerned meetings and merely signed the



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Minutes of the said meetings in good faith. The Board observed that had he taken care to attend the said meetings, he could have known about the facts regarding fabricated financial statements, back dated vouchers etc. about the Company and thus, by not attending the said meeting, he in a way helped the Company and its promoters in all their wrong doings. The Respondent not only accepted his guilt before the Board but also admitted on Oath before the Court of the XVII Additional Chief Metropolitan Magistrate, Bangalore that he did not attend any Board meeting. He was not authorized to sign any cheques as authorised signatory. He did not sign any loan documents and has not taken part in day-to-day management of the company. He signed Minutes register in good faith. The Board also observed that the Respondent is a qualified experienced Chartered Accountant. Thus, he was expected to be aware of his role and responsibilities of being an Audit Committee member. The failure to perform statutory duty in the manner required cannot be excused merely on the ground that he acted in good faith or did not receive any remuneration from the company. Thus, the Board was of the view that the Respondent did not fulfil his duties as a Chairman of the Audit Committee, member of the Remuneration Committee and Independent Director of the Company during the period from April 2006 to December 2012 and accordingly, the Board held the Respondent 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.

7. Thus, upon consideration of the facts of the case, the consequent misconduct of CA. G. Kumar (M. No. 025885) and keeping in view his written representation before it, the Board decided to remove the name of CA. G. Kumar (M. No. 025885) from the Register of Members for a period of 30 (thirty) days.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

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

सही प्रतिलिपि होने के लिए प्रमाणित/
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नीलम पुंडीर / Neelam Pundir
कार्यकारी अधिकारी / Executive Officer
अनुशासनशासक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
10032

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/48F/16-DD/228/16/BOD/513/2019

CORAM:

CA. Prasanna Kumar D., Presiding Officer (in-person)
Ms. Dolly Chakrabarty (IAAS, Retd.), Government Nominee (attended through video conferencing)
CA. (Dr.) Raj Chawla, Member(in-person)

In the matter of:

Shri Rajashekara N.,
Superintendent of Police,
CBI, BS & FC,
2nd Floor, No. 36,
Bellary Road, Ganganagar,
Bangalore – 560032

.....Complainant

Versus

CA. G. Kumar (M. No. 025885)
VIGFIN House, New no. 24(Old no. 15)
Yogambal Street, T. Nagar,
Chennai- 600017

.....Respondent

Date of Final Hearing : 24th June, 2022
Place of Final Hearing : New Delhi / through videoconferencing

PARTIES PRESENT (through videoconferencing):

Respondent : CA. G. Kumar
Counsel for Respondent : CA. V. Thiagarajan

FINDINGS:

Background of the case:

1. The Central Bureau of Investigation conducted investigation against the Chairman namely Shri T. Venkatram Reddy of M/s Deccan Chronicle Holdings Limited (hereinafter referred

Page 1

to as the 'Company') and others including the Respondent. It was alleged that the Company fraudulently availed excessive credit facilities, by inflating its revenue, suppressing actual borrowings from other banks/ Financial Institutions, furnishing fake and fabricated financial statements and diverting the said loan amount for purposes other than for which it was sanctioned, thereby causing a wrongful loss of Rs. 116.35 crores with interest as on 30th September 2013 to Corporation Bank, Bangalore. The Company also availed credit facilities from various banks/ financial institutions and the present outstanding liabilities of the Company is more than Rs. 4067 crores.

CHARGE ALLEGED:

2. The Respondent was the Independent Director of the Company from April 2006 to December 2012. During the said period, he also acted as the member/ Chairman of the Audit Committee and the Remuneration Committee of the company. He also acted as the non-executive director of M/s Odyssey India Ltd. and M/s Deccan Chargers Sporting Ventures Ltd. which were 100 % subsidiaries of the company. During the course of investigation, it was disclosed by Sh. V. Shankar, the then company secretary of the company and other independent directors/Audit Committee members that no Board meeting or Audit Committee Meeting were held in the company. However, minutes were prepared and signed only to meet the requirements. Thus, the Complainant alleged that the Respondent without attending the Board Meetings and Audit Committee Meetings signed the minutes of the said meetings only to meet the requirements. The Respondent himself admitted before the CBI that he did not attend the board meetings or audit committee meetings. All the records showing his attendance in the Board meetings held during the period between 2006 and 2012 were prepared by the promoters of the Company and the Company used to send the relevant Minutes register and Attendance register to his office at Chennai through a special messenger and he used to sign the said Minutes register and Attendance register on the request of Shri. P.K. Iyer, though he had not attended those Board Meetings. The Respondent further admitted that all the major decisions pertaining to M/s DCHL was being taken by the three promoter directors, others had no role in the said decisions. Accordingly, it is alleged that the Respondent failed to discharge his functions as Audit Committee member.

BRIEF OF PROCEEDINGS HELD:

3. At the time of hearing held in the case on 24th June, 2022, the Board noted that the Respondent alongwith his Counsel were present before it through video conferencing. However, neither the Complainant/their authorised representative was present before it nor was there any intimation as regards his non-appearance. Since the notice for hearing had been duly served upon the Complainant Department, the Board decided to proceed ahead with the hearing in the case. Thereafter, the Respondent was put on oath. He and

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his Counsel confirmed that they have read and understood the contents of the modalities and protocols of e-hearing and follow them. The charges alleged against the Respondent were taken as read with the consent of the party present. On being asked by the Board as to whether the Respondent pleaded guilty in respect of the charges alleged against him, he replied in affirmative and accepted his guilt with a request to the Board to take a lenient view in the matter as he acted in good faith. The Counsel for the Respondent made his further submissions before the Board. The Respondent was examined by the Board. On consideration of the documents and submissions on record, the Board concluded the proceedings in the case.

BRIEF OF SUBMISSIONS:

4. The Respondent, in his defence, inter-alia, submitted as under:
 - a. He was appointed as non-executive director of the company in April, 2006 and also held the position of Chairman Audit Committee besides being the non- executive director of M/s Odyssey INDIA Limited and M/s. Deccan Chargers Sporting Venture Limited which were 100% subsidiary of the company. He resigned from the directorship of the company on 14th August, 2012 and was relieved on 8th December, 2012. He was not paid any remuneration or sitting fee for the Audit Committee/Board meetings.
 - b. CA. S. Balasubramanian had introduced the Respondent to the company. The Respondent did not attend the audit committee meetings. He had signed the Register in good faith based on the trust he had on CA. S. Balasubramanian who was the internal auditor of the company.
 - c. He is not aware of any of the transactions of the company and also Financial Statements of the company as on 31st March 2009 were certified jointly by M/s. CB Mouli & Associates and CA. Zubin Dady Shekhary, Partner, BSR & Co.

OBSERVATIONS OF THE BOARD:

5. The Board noted the Respondent was the Independent Director of the Company from April 2006 to December 2012. During the said period, he also acted as the member/ Chairman of the Audit Committee and the Remuneration Committee of the company.
6. The Board noted that the Respondent signed the following Minutes of the Audit Committee meetings/ Audit sub-Committee meetings in the capacity of the Chairman of the said Committees wherein the following business was transacted:

(a) Audit Committee:

Sr. No.	Date of meeting of Audit Committee	Principal Business transacted

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1.	19 th January,2007	To review and recommend the un audited financial accounts for the quarter ended 31 st December, 2006 to the Board of Directors
2	27 th April,2007	To review and recommend the un audited financial accounts for the quarter ended 31 st March, 2007 to the Board of Directors
3	27 th July,2007	To consider, review and recommend the consolidated annual accounts as on 31 st March, 2007 as per IFRS to the Board of Directors
4.	26 th October,2007	To review and recommend the un audited financial accounts for the quarter and half year ended 30 th September, 2007 to the Board of Directors
5.	28 th January,2008	To review and recommend the un audited financial accounts for the quarter and nine months ended 31 st December, 2007 to the Board of Directors
6.	28 th April,2008	To fix and recommend remuneration of the statutory auditors for the year 2007-2008
7.	30 th June,2008	To review and approve the audited financial results of the company for the year ended 31 st March, 2008 on a standalone and consolidated basis.
8.	29 th July,2008	To review and recommend the audited financial accounts for the 1 st quarter year ended 30 th June, 2008 to the Board of Directors.
9.	12 th September,2008	To review and recommend consolidated annual accounts for the year ended 31 st March, 2008 prepared as per the International Financial reporting standards.
10.	31 st October,2008	To review and recommend the un audited financial accounts for the quarter and half year ended 30 th September 2008, to the Board of Directors.
11.	30 th January,2009	To review and recommend the un audited financial accounts for the quarter and nine months ended 31 st December 2008, to the Board of Directors.
12.	6 th April,2009	To fix and recommend remuneration of the statutory auditors for the year 2008-2009
13.	26 th June,2009	To consider and review draft annual Financial Statements for the accounting year ended 31 st March 2009 to be forwarded to the Board of Directors.
14.	31 st July,2009	To consider and review unaudited financial results for the quarter ended 30 th June 2009 to

D-62

		be forwarded to the Board of Directors.
15.	30 th October,2009	To consider and review unaudited financial results for the quarter ended 30 th June 2009 to be forwarded to the Board of Directors
16.	29 th January,2010	To consider and review unaudited financial results for the quarter ended 31 st December 2009 to be forwarded to the Board of Directors.
17.	14 th May,2010	To consider and review unaudited financial results for the year ended 31 st March 2010 to be forwarded to the Board of Directors.
18.	13 th August,2010	To consider and review the draft annual Financial Statements for the accounting year ended 31 st March 2010 to be forwarded to the Board of Directors.
19.	12 th November, 2010	To consider and review unaudited financial results for the quarter and half year ended 30 th September 2010 to be forwarded to the Board of Directors.
20.	14 th February,2011	To consider and review unaudited financial results for the quarter ended 31 st December 2010 to be forwarded to the Board of Directors.
21.	13 th May,2011	To consider and review unaudited financial results for the quarter ended 31 st March 2011 to be forwarded to the Board of Directors.
22.	13 th August, 2011	To consider and review unaudited financial results for the quarter and half ended 30 th June 2011 to be forwarded to the Board of Directors.
23.	14 th November, 2011	To consider and review unaudited financial results for the quarter and half ended 30 th September 2011 to be forwarded to the Board of Directors.
24.	14 th February,2012	To consider and review unaudited financial results for the quarter and nine months ended 31 st December 2011 to be forwarded to the Board of Directors.

(b) Audit Sub-Committee:

S. No.	Date(s) of meeting of Audit sub -Committee	Principal Business transacted
1.	27 th April,2006	To review the financial results for the quarter ended 31 st March 2006
2.	16 th June,2006	To review and recommend the Annual Audited accounts for the Financial year 2006
3.	14 th July,2006	To review and recommend the International

		financial reporting standards for the year 2006
4.	26 th July, 2006	Committee reviewed the financial results for the quarter ending 30.06.2006
5.	16 th October, 2006	Committee reviewed the financial results for the quarter ending 30.09.2006

7. The Board also noted that the Respondent in his Statement dated 19th May, 2015 recorded u/s 161 Cr.P.C in the O/o Supdt. Of Police and Head of Branch, CBI, BS&FC, Ganganagar, Bangalore, inter-alia, deposed as under:

"On being shown, the Minutes of the Board of Directors Meeting of M/s DCHL for the period from June, 2009 to August 2012, I state that almost all Minutes of the Meetings shows my presence along with the presence of other Directors of the Company. However, I have never attended the meetings, but signed the attendance Register maintained for the Board Meetings.

On being asked about the functions and activities of Audit Committee, I being the member of the Audit Committee of M/s DCHL, I state that the statutory Auditors, Shri Mani Omen, of M/s C.B. Mouli & Associates used to audit financial statements and balance sheets of the company and the same was being put up before the Audit Committee. I cannot say who the internal auditors were. I never attended the Audit Committee Meetings. The Registers containing the Minutes of Audit Committees Meeting were being sent to me for my signature. I used to sign the said Minutes of the Audit Committee proceedings believing the same to be in order as I had no say in the day to day business matters of the company.

On being asked as to whether terms of reference were issued to the audit committee by the Management, I cannot say anything in this regard as I never attended the audit committee meetings.

On being pointed out that every audit committee constituted under Section 292-A sub section (1) of the Companies Act, 1956, shall act in accordance with the terms of reference to be specified in writing by the Board; I cannot say anything about the same.

On being pointed out that as per Section 292-A of the Companies Act, 1956, the auditors, the Internal auditor if any and the Director in charge of finance shall attend and participate at meetings of the Audit Committee but shall not have the right to vote; I cannot say anything about the same.

On being asked about the reasons for such deviation from the provisions of the Companies Act, 1956, despite the section 292-A provides for penal action; I have no comments to offer."

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8. The Board further noted that the Respondent in his Statement recorded before the Court of the XVII additional Chief Metropolitan Magistrate, Bangalore inter-alia, deposed as under:

"I am one of the independent directors of DCHL. I did not attend any board meeting. I am not authorized signatory for cheques. I have not signed any loan documents. I do not have a single share in this Company. I have not taken part in day to day management of the company. I have signed Minutes Register in good faith."

9. The Board further perused Section 292 of the Companies Act, 1956 which provides as under:

"Sec 292A - Audit Committee

(6) The Audit Committee should have discussions with the auditors periodically about internal control systems, the scope of audit including the observations of the auditors and review the half yearly and annual financial statements before submission to the Board and also ensure compliance of internal control systems.

(7) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in this section or referred to it by the Board and for this purpose, shall have full access to information contained in the records of the company and external professional advice, if necessary.

(8) The recommendations of the Audit Committee on any matter relating to financial management including the audit report, shall be binding on the Board

(9) If the Board does not accept the recommendations of the Audit Committee, it shall record the reasons therefor and communicate such reasons to the shareholders.

(10) The Chairman of the Audit Committee shall attend the annual general meetings of the company to provide any clarification on matters relating to audit".

10. The Board thus observed that Respondent as a Chairman of the Audit Committee and Independent Director of the Company did not comply with the provisions of the Companies Act 1956 and failed in performance of his duties as he did not attend the concerned meetings and merely signed the Minutes of the said meetings in good faith. The Board observed that had he taken care to attend the said meetings, he could have known about the facts regarding fabricated financial statements, back dated vouchers etc. about the Company and thus, by not attending the said meeting, he in a way helped the Company and its promoters in all their wrong doings. Such an act on the part of the Respondent is clearly unbecoming of a Chartered Accountant.

[Handwritten signature]

11. The Board also noted that the Respondent not only accepted his guilt before the Board but also admitted on oath before the Court of the XVII Additional Chief Metropolitan Magistrate, Bangalore that he did not attend any Board meeting. He was not authorized to sign any cheques as authorised signatory. He did not sign any loan documents and has not taken part in day-to-day management of the company. He signed Minutes register in good faith.
12. The Board also observed that the Respondent is a qualified experienced Chartered Accountant. Thus, he was expected to be aware of his role and responsibilities of being an Audit Committee member. The failure to perform statutory duty in the manner required cannot be excused merely on the ground that he acted in good faith or did not receive any remuneration from the company.
13. Thus, having regard to the attendant circumstances, evidences and submissions on record, the Board was of the view that the Respondent did not fulfil his duties as a Chairman of the Audit Committee, member of the Remuneration Committee and Independent Director of the Company during the period from April 2006 to December 2012 and has brought disrepute to the profession by his such conduct.

CONCLUSION:

14. The Board of Discipline, in view of the above, is of the considered view that the Respondent is **GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule read with section 22 of said Act.

Sd/-
CA. Prasanna Kumar D.
(Presiding Officer)

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

Sd/-
CA. (Dr.) Raj Chawla
(Member)

DATE: 02nd November, 2022

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