

**DISCIPLINARY COMMITTEE [BENCH-II (2022-23)]**  
**(Constituted under section 21B of the Chartered Accountants Act, 1949)**

**Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007**

File No. : PPR/P/16/16/DD/324/INF/17-DC/1368/2020

**In the matter of :**

**CA. Madhav Balwant Pol (M.No.035069)**  
Malhari, A-2/22, Rambaug Colony  
Navi Peth  
PUNE- 411030

----- Respondent

**Members Present:**

1. **CA. (Dr.) Debashis Mitra, Presiding Officer** (Present through Video Conferencing)
2. **Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee** (Present through Video Conferencing)
3. **Shri Arun Kumar, I.A.S. (Retd.), Government Nominee** (Present in person)
4. **CA. Rajendra Kumar P, Member** (Present through Video Conferencing)
5. **CA. Cotha S Srinivas, Member** (Present in person)

**DATE OF FINAL HEARING : 07.11.2022 (Through Physical/ Video Conferencing)**

**Parties Present:**

**Respondent : CA. Madhav Balwant Pol**  
**Counsel for Respondent : CA. Sharad Vaze**

**CHARGES IN BRIEF:**

1. The Committee noted that in the present case, the Respondent was held Prima-facie Guilty by the Director (Discipline) of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the



Chartered Accountants Act, 1949 on the following charges with respect to his statutory audit for the F.Y. 2011-12 of M/s Maharashtra Executor and Trustee Company Private Limited (hereinafter referred to as the “**Company**”):

- a. Failure in reporting violation of AS-20
- b. Failure in reporting violation of requirement of AS-15 read with Section 211(3A) of the Companies Act, 1956
- c. Failure in reporting violation of AS-18
- d. Failure in reporting violation of AS-3 read with Section 211(3A) of the Companies Act, 1956
- e. Failure in reporting violation of AS-29
- f. Non-disclosure of Company details of amount and interest payable to Small and Medium Enterprises (SMEs) with interest payable despite Company had shown the “trade payable” as Rs. 3.63 lakhs in the balance sheet.
- g. Failure in reporting violation of the provisions of Schedule VI read with Section 211 of the Companies Act, 1956, with respect to disclosure of fixed deposits, trade receivables, and repair maintenance.

**BRIEF FACTS OF THE PROCEEDINGS:**

2. On the day of the final hearing, on 07/11/2022, the Committee noted that the Respondent was also present before it from the BKC Office of ICAI at Mumbai along with his counsel CA. Sharad Vaze. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges.

2.1 The Counsel for Respondent, at the outset, submitted that the facts of the instant case are similar to the facts of the one case, decided by the Disciplinary erstwhile Committee, against CA. Rajesh Kirloskar. He further submitted that CA. Rajesh Kirloskar was exonerated by the then Disciplinary Committee on similar charges.



- 2.2 After considering all papers available on record and after detailed deliberations and recording the submissions, the Committee decided to conclude the matter.

**Findings of the Committee:**

3. The Committee noted that the Informant (ROC) in his letter dated 15<sup>th</sup> March, 2016 (Page A-3 of the Prima-facie opinion) mentioned that the inspection of the Company was carried out under Section 207 of the Companies Act, 2013 by the Inspecting Officer appointed by the Central Government.
4. The Committee noted that the Respondent in defence had taken plea of similarity of his case with CA. Rajesh Kirloskar. He further submitted that Rajesh Kirloskar in case reference number [PPR/P/16/16/DD/325/INF/17-DC/937/18] was exonerated by the erstwhile Disciplinary Committee. In order to reach a consensus, the Committee decided to compare the facts of the current case to those of the erstwhile Disciplinary Committee.
5. The Committee, on comparison of both cases, determined that the respondent in the instant case was the auditor for FY 2011-12, whereas CA. Rajesh Kirloskar was the subsequent auditor of the same company. The Committee also noted that the Respondent in the instant case was guilty of seven charges as mentioned in para 1 above whereas CA. Rajesh Kirloskar was held guilty by the Director (Discipline) on the following charges:
  - a. Failure in reporting violation of AS-20.
  - b. Failure in reporting violation of AS-15.
  - c. Failure in reporting violation of AS-3 read with Section 211(3A) of the Companies Act, 1956.
  - d. Failure in reporting violation of the provisions of Schedule VI read with Section 211 of the Companies Act, 1956 with respect to disclosure of Fixed assets.

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6. The Committee, accordingly, decided to take into consideration the report of the erstwhile Disciplinary Committee in respect of these four charges. As regards balance charges, the Committee decided to proceed on the merits of the case.
7. The Committee noted that the first charge relates to the failure of the Respondent to report violation of AS-20 for the failure of the Company to disclose EPS either on the face of the profit and loss accounts (Page C-70 of the Prima-facie opinion) or in the Notes to the Accounts (page C-79 to C-81 of the Prima-facie opinion).
- 7.1 The Committee noted that the erstwhile Disciplinary Committee in its report in respect of CA. Rajesh Kirloskar had given the following findings:

*"7. The Committee in this regard noted that as per requirement of AS-20, basic and diluted earning per share are required to be disclosed on the face of the Profit & Loss Account of the Company and though it was not shown on the face of the Profit & Loss Account of the Company but the same was duly disclosed in Form 23 ACA for Financial Years 2012-13 (C-90) 2013-14 (C-38) which were filed on 25.04.2013 and 08.05.2014 respectively. As regards financial year 2011-12, on perusal of Form 23ACA for the financial year 2012-13, it was noted that EPS for the financial year 2011-12 was shown as corresponding previous year's figures in the said form (C-90). Moreover, it was 100% subsidiary of Bank of Maharashtra, and hence, its omission did not cause any loss to any investor/shareholder. Accordingly, in light of above, the Committee held that the Respondent was not guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect of this charge."*

- 7.2 The Committee from perusal of Form 23ACA on 2<sup>nd</sup> May 2012 noted that in the present case the EPS for F.Y. 2011-12 was duly disclosed (page C-49 of the prima-facie opinion).
- 7.3 The Committee considering the fact that the Company was a 100% subsidiary of Bank of Maharashtra, opined that, its omission did not cause any loss to any investor/shareholder. Accordingly, in light of above, the Committee held that the Respondent was not guilty of professional misconduct falling within the meaning

of Items (5), (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect of this charge.

8. The Committee noted that the second charge relates to failure of the Respondent to report violation of AS-15 for the failure of the Company to disclose detailed disclosures with respect to the provision for gratuity in the Notes to Accounts (Page C-80 of the Prima-facie opinion).

8.1 The Committee noted that the erstwhile Disciplinary Committee, in its report in respect of CA. Rajesh Kirloskar had given the following findings:

*"13. With regard to the above, the Committee was of the opinion that though it was mentioned in Notes to Accounts that provisions for defined benefit plans like Gratuity and leave encashment were made as per Actuarial Valuation and the Respondent had brought on record copy of Actuarial Valuation Report of Gratuity Liability, Actuarial Valuation Report of Accumulating Compensated Absence Liability (Privilege Leave) (C-266 to C-319) yet, the disclosures required in terms of the requirement of AS-15 were not disclosed in the Notes to Accounts of either financial year (C43 to C46 and C-75 to C-78). However, it was noted that the Gratuity provision was done on actuarial basis and the Company had assigned it to a professional firm on the basis of whose report the provision was made. It was accordingly noted that adequate provision as per actuarial valuation was given and there was true and fair view of profit as well as that liabilities thereof. Only further detailed disclosures were not given which again did not affect true and fair view. It was a lapse of technical nature only. The Respondent, therefore, cannot be termed/inferred to be grossly negligent in discharging his professional duties. Accordingly, the Committee held the Respondent not guilty with respect to this charge."*

8.2 The Committee noted from perusal of Balance Sheet that provision for gratuity had been made and was duly appearing in the Balance Sheet (Page C-71 of the Prima-facie opinion), however the detailed disclosure was not made in Notes to Accounts. The Committee found the lapse of the Respondent to be technical in nature. The Committee opined that missing out on the details of a provision can be treated as negligence on the part of the Respondent, but the same cannot be tantamount to gross negligence. The Committee accordingly

decided to hold that the Respondent was not guilty of professional misconduct falling within the meaning of Item (5), (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

9. The Committee noted that the third charge relates to the failure of the Respondent to report violation of AS-18 for the failure of the Company to disclose details of Key Managerial person in the Notes to Accounts (Page C-80 of the Prima-facie opinion). It is further charged that the Respondent failed to report that the Company has not disclosed the corresponding amounts for the immediately preceding financial year in relation to related parties (Page C-80 of the Prima-facie opinion).
- 9.1 The Committee noted that this charge against CA. Rajesh Kirloskar was not considered by the erstwhile Disciplinary Committee because CA. Rajesh Kirloskar was held prima-facie not guilty on this charge by the Director (Discipline). The Committee further noted that in matter CA. Rajesh Kirloskar the allegation was relating to non-disclosure of detail of Key Management person only.
- 9.2 The Committee on merits of the charge noted that Note (2) and (5) under 'General Instructions for preparation of balance sheet and Statement of Profit & Loss of a Company in addition to the Notes incorporated above the heading of balance sheet' of Revised Schedule VI reads as under:

***2. The disclosure requirements specified in Part I and Part II of this Schedule are in addition to and not in substitution of the disclosure requirements specified in the Accounting Standards prescribed under the Companies Act, 1956. Additional disclosures specified in the Accounting Standards shall be made in the notes to accounts or by way of additional statement unless required to be disclosed on the face of the Financial Statements. Similarly, all other disclosures as required by the Companies Act shall be made in the notes to accounts in addition to the requirements set out in this Schedule.***

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5. *Except in the case of the first Financial Statements laid before the Company (after its incorporation), **the corresponding amount (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including notes shall also be given (emphasis added).***

- 9.3 From the above, the Committee noted that it is amply clear that the Company was required to disclose the corresponding amounts for the immediately preceding financial year for all items shown in the notes to accounts along with the amounts of current financial year.
- 9.4 The Committee noted that the Respondent had not brought on record any submissions to its satisfaction as to why previous year figures were not disclosed. The Committee noted that at the hearing stage, the Respondent/ his Counsel accepted this unintentional lapse. The Committee noted that the Company has disclosed the corresponding amounts for the immediately preceding financial year in other notes to accounts (**C-79 to C-81**) except for the disclosure made in relation to related parties.
- 9.5 In absence of the Respondent's submission on merits, the Committee opined that the Company had not complied with the requirements prescribed under Accounting Standard – 18 and Revised Schedule VI under Companies Act 1956 and the Respondent being the Statutory Auditor of the Company failed to disclose the said non-compliance in his audit report. Thus, it is viewed that the Respondent is Guilty of Professional Misconduct falling within the meaning of Items (7) of Part-I of Second Schedule of the Chartered Accountants Act 1949.
10. The Committee noted that the fourth charge relates to the failure of the Respondent to report violation of AS-3 for the failure of the Company to include Cash Flow Statement as part of its financial statements.
- 10.1 The Committee erstwhile Disciplinary Committee, in its report in respect of CA. Rajesh Kirloskar had given the following findings:

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"10. The Committee in this regard noted that the Respondent had produced on record copy of documents which remained to be attached with financial statements of the Company (C320-C325). On perusal of the said documents, it was noted that the said documents include Receipt & Payments Accounts for the year ended 31.03.2013 and 31.03.2014. It was further noted that Cash Flow Statement is prepared in accordance with the requirement of AS-3 classifying the cash inflows / outflows into those arising from operating, investing and financial activities. However, the Receipt & Payment Account so prepared by the Respondent was although not in the required format in accordance with the requirement of AS-3 but it gave clear information about the receipt and payments made by the Company. Accordingly, the Committee was of the view that there was not a total omission of information as required under AS-3. The Committee was also of the view that the same could not be construed to be a "professional misconduct" as in order to invoke the same, in addition to the failure to do the duty there should be a failure to act honestly and reasonably which was not the case here. Accordingly, the Committee was of the considered opinion that the Respondent was not grossly negligent in discharging his duties and decided to give him benefit of doubt with respect to this charge."

10.2 The Committee, regarding the alleged charges, observed that inclusion of cash flow statement was not mandated for the period audited by the Respondent. Hence, non-reporting of the same cannot be tantamount to misconduct on the part of the Respondent. The Committee accordingly decided to exonerate the Respondent from this charge and hold him not guilty of Professional Misconduct falling within the meaning of Items (5), (6) and (7) of Part-I of Second Schedule of the Chartered Accountants Act 1949.

11. The Committee noted that the fifth charge relates to failure of the Respondent to report violation of AS-29.

11.1 The Committee noted that this charge against CA. Rajesh Kirloskar was not considered by the erstwhile Disciplinary Committee because CA. Rajesh Kirloskar was held prima-facie not guilty on this charge by Director (Discipline).

11.2 The Committee noted that the Respondent in his Written Statement stated (page B-7 of the prima-facie opinion) had mentioned that in MCA report dated

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15.03.2016 a contingent liability might arise from a particular case filed against the Company in the High Court, had not been disclosed as contingent and according to him, the impugned liability was on account of a likely penalty notice from the Income Tax Department.

11.3 The Committee further noted that the Respondent stated that the directors of the Company had duly explained to him why they did not expect any penalty under the income tax act in the said case. The Committee noted that, the Respondent, at prima-facie stage had not submitted any documentary evidence in support of his defense viz working papers or management representation letter. Further, it is also noted that while submitting the additional documents as called for from the Respondent, he has submitted (page C-57 of the prima-facie opinion) that no management representation letter was obtained by him in writing during the course of audit rather was discussed during the course of audit.

11.4 The Committee noted that Paragraph 61 of 'Guidance Note on Audit of Liabilities', in this regard states as follows:

**"Documentation**

61. The auditor should maintain adequate working papers regarding audit of liabilities and contingent liabilities. Among others, he should maintain on his audit file, confirmations received as well as any undelivered letters of request for confirmation. The management representation letter contingent liabilities and contingent liabilities should also be maintained on the audit file."

11.5 The Committee noted that an auditor the Respondent was required to obtain management representation letter from the management to get their submission that all contingent liabilities have been properly disclosed. However, the Respondent's defence about non-receipt of the management representation letter is contradictory to the prescribed documentation as discussed above and cannot be accepted. The Respondent was not only grossly negligent in his professional duties but also failed to obtain sufficient information necessary for



forming an opinion. The Committee also found that the Respondent failed to disclose material fact known to him.

11.6 Accordingly, the Committee hold that the Respondent Guilty of Professional Misconduct falling within the meaning of Items (5), (7), and (8) of Part-I of the Second Schedule of the Chartered Accountants Act 1949.

12. The Committee noted that the sixth charge relates to failure of the Respondent in disclosing the details of amount and interest payable to Small and Medium Enterprises (SMEs) with interest payable despite Company had shown the "trade payable" as Rs. 3.63 lakhs in the balance sheet.

12.1 The Committee noted that this charge against CA. Rajesh Kirloskar was not considered by the erstwhile Disciplinary Committee because CA. Rajesh Kirloskar was held prima-facie not guilty on this charge by Director (Discipline).

12.2 The Committee noted that in Note no. 17 (page C-81 of prima-facie opinion) under Notes to Accounts of the financial statements of the Company following disclosure was given:

*"17. Dues in respect of SSI Undertakings*

*It was informed that there are no dues payable in respect of SSI undertakings."*

12.3 The Committee, from the above, noted that the Company has disclosed the dues in respect of SSI undertakings only and omit to disclose any information in respect of MSMEs.

12.4 The Committee viewed that with the emergence of MSMED (Micro Small and Medium Enterprise Development) Act, 2006, Small Scale Industries (SSI) are different from the Medium Enterprises depending on the level of investments made therein. It is accordingly noted that there was an omission of disclosures required as per MSMED Act, 2006 with respect to medium enterprises, which the Respondent being the Statutory Auditor of the Company had failed to report about such non-compliance.

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12.5 The Committee noted the Respondent had argued that the total amount payable to sundry creditors was not material. The Committee in this regard noted that Section 24 of Micro, Small and Medium Enterprises Development Act, 2006 states as under:

*"24. The provisions of sections 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force (emphasis added)."*

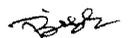
12.6 Accordingly, the Committee viewed that disclosure requirement was required to be followed even though the amount was considered immaterial. Accordingly, the Committee hold the Respondent Guilty of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule of the Chartered Accountants Act 1949.

13. The Committee noted that the seventh charge relates to the failure of the Respondent to report violation of the provisions of Schedule VI read with Section 211 of the Companies Act, 1956 with respect to disclosure of Fixed deposits, trade receivables, and repair maintenance.

13.1 As regards fixed assets is concerned, the Committee noted that the charge is that the Company had shown the Fixed Deposits to the tune of Rs. 5.38 Crores for the year ended 31" March, 2012 under the head "Non-Current Investment" however as per the requirements of Schedule-VI, Fixed Deposits with Bank should have shown under the head "Cash and cash Equivalents".

13.2 The Committee erstwhile Disciplinary Committee in its report in respect of CA. Rajesh Kirloskar had given following findings:

*"16. The Committee in this regard noted that there was only a question of classification as to whether the fixed deposits were to be shown under investments or under the head cash or cash equivalent which did not made any material difference based on the reasoning provided by the Respondent. The Committee noted that considering the Company's business and also the fact that being in receipt of trust balances which were irrevocable and of perpetual existence if such trust balances were shown as non-current assets and hence the corresponding Fixed deposits were also shown under*



the non-current asset head, it cannot be stated that the Respondent was guilty of gross negligence / lack of due diligence as such presentation did not affect the true and fair view of the financial statements.

17. .... Accordingly, in the light of above, although the Committee considered the Respondent not guilty of professional misconduct falling within the meaning of Clauses (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, it also advised the Respondent to be cautious so as to avoid such mistakes in future.”

13.3 The Committee noted that the erstwhile Disciplinary Committee had exonerated the concerned Chartered Accountant and also advised him to be cautious. The Committee noted that the erstwhile Disciplinary Committee passed benefit in favour of the Chartered Accountant CA. Rajesh Kirloskar because he was found not guilty on other charges. The Committee as regards current Respondent is concerned noted this was an apparent mistake on the part of the Respondent being auditor for F.Y. 2011-12. The Committee, looking into the conduct of the Respondent with respect to disclosures in respect of other charges, decided not to pass the favour of precedence to him.

13.4 The Committee noted that such violation / wrong- grouping of fixed deposits under Non-Current Investments amounting to 71% (approx) of the total balance sheet size is misrepresentation of the state of affairs of the Company. In spite of this, the Respondent has claimed that such violation were not material. Further, wrong-grouping of such transaction under the head of 'Non-Current Investments' instead of 'Cash & Cash Equivalent' has a major impact on the various ratios for example – Current Ratio of the Company. Thus, it is clear that the Respondent was grossly negligent and did not exercise due diligence while discharging his professional duties during the audit of the Company for the FY 2011-12. The Committee also noted that the Respondent failed to report such material misstatement known to him.

13.5 Accordingly, the Committee hold the Respondent Guilty of Professional Misconduct falling within the meaning of Items (6) and (7) of Part-I of Second Schedule of the Chartered Accountants Act 1949.

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- 13.6 As regards trade receivables are concerned, the Committee noted that the charge is that the Company had shown Rs. 1.13 lacs towards "trade receivable" (Page C-75 of the prima-facie opinion) however, the Company had not shown whether the amount receivable were Secured, Unsecured or Doubtful etc.
- 13.7 The Committee noted that this charge against CA. Rajesh Kirloskar was not considered by the erstwhile Disciplinary Committee because CA. Rajesh Kirloskar was held prima-facie not guilty on this charge by Director (Discipline).
- 13.8 The Committee noted that the amount of trade receivables was not material as it stood at 0.15% of the total size of the Balance Sheet. Hence, keeping in view of the concept of the materiality and its impact on financial position and profitability, it cannot be stated that the Respondent failed to point out material misstatement in the financial statements of the Company.
- 13.9 Accordingly, the Committee hold the Respondent not guilty of Professional Misconduct falling within the meaning of Item (6) and (7) of Part-I of Second Schedule of the Chartered Accountants Act 1949.
- 13.10 As regards repair and maintenance is concerned, the Committee noted that the charge is that the Company was supposed to disclose repairs and maintenance as repairs to building and repairs to machineries etc. However, it was stated that no such bifurcation was made in the profit and loss account, though the Company had incurred expenses for the same in that year.
- 13.11 The Committee noted that this charge against CA. Rajesh Kirloskar was not considered by the erstwhile Disciplinary Committee because CA. Rajesh Kirloskar was held prima-facie not guilty on this charge by the Director (Discipline).
- 13.12 The Committee in this regard noted that the Company has disclosed the expenditure of Rs. 45,923/- as 'Repairs & Maintenance' (Page C-77 of the Prima-facie opinion) under the accounting head of 'Other Expenses'.

*Rajesh*

13.13 The Committee noted on perusal of the fixed assets schedule (Page C-73 of the prima-facie opinion), that the Company did not have any Plant & Machinery or building, hence, question of repair them does not arise.

13.14 Accordingly, the Committee hold the Respondent not guilty of Professional Misconduct falling within the meaning of Item (6) and (7) of Part-I of Second Schedule of the Chartered Accountants Act 1949.

**CONCLUSION:**

14. In view of the above findings stated in above paras vis a vis material on record, the Committee gives its charge wise findings as under:

Charges (para ref.)	Findings (para ref.)	Decision of the Committee
1 a	7 to 7.3	Not Guilty - Items (5), (6) and (7) of Part I of the Second Schedule
1 b	8 to 8.2	Not Guilty - Items (5), (6) and (7) of Part I of the Second Schedule
1 c	9 to 9.5	Guilty - Item (7) of Part I of the Second Schedule
1 d	10 to 10.2	Not Guilty - Items (5), (6) and (7) of Part I of the Second Schedule
1 e	11 to 11.6	Guilty - Items (5), (7) and (8) of Part I of the Second Schedule
1 f	12 to 12.6	Guilty - Item (7) of Part I of the Second Schedule
1 g	13.1 to 13.5	Guilty - Items (6) and (7) of Part I of the Second Schedule
	13.6 to 13.9	Not Guilty - Items (6) and (7) of Part I of the Second Schedule
	13.10 to 13.14	Not Guilty - Items (6) and (7) of Part I of the Second Schedule

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15. The Committee, accordingly, in its considered opinion hold the Respondent GUILTY of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(CA. (Dr.) DEBASHIS MITRA)  
PRESIDING OFFICER

Sd/-

(MRS. RANI NAIR, I.R.S., RETD.)  
GOVERNMENT NOMINEE

Sd/-

(SHRI ARUN KUMAR, I.A.S., RETD.)  
GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)  
MEMBER

Sd/-

(CA. COTHA S SRINIVAS)  
MEMBER

DATE:11.02.2023  
PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

बिना नाथ तिवारी / Bishwa Nath Tiwari  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक विदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

[PPR/P/16/16/DD/324/INF/17-DC/1368/2020]

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

[PPR/P/16/16/DD/324/INF/17-DC/1368/2020]

**In the matter of:**

**CA. Madhav Balwant Pol (M.No.035069) in Re:**

Malhari, A-2/22, Rambaug Colony

Navi Peth

**PUNE- 411030**

**-- Respondent**

**MEMBERS PRESENT:**

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)
2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)
3. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
4. CA. Sanjay Kumar Agarwal, Member (Present in person)
5. CA. Sridhar Muppala, Member (Present through video conferencing mode)

**DATE OF MEETING : 28.03.2023 (Through Physical/ Video Conferencing Mode)**

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 11<sup>th</sup> February, 2023, the Disciplinary Committee was, inter-alia of the opinion that **CA. Madhav Balwant Pol (M.No.035069)**, (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Items (5), (6), (7), and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. The Committee noted that the instant matter relates to the statutory audit for the F.Y. 2011-12 of M/s Maharashtra Executor and Trustee Company Private Limited undertaken by the Respondent. The Committee further noted that, in its findings the Respondent is held guilty on following charges:

- a. Failure in reporting violation of AS-18.
- b. Failure in reporting violation of AS-29.



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[PPR/P/16/16/DD/324/INF/17-DC/1368/2020]

- c. Non-disclosure of Company details of amount and interest payable to Small and Medium Enterprises (SMEs) with interest payable despite Company had shown the “trade payable” as Rs. 3.63 lakhs in the balance sheet.
- d. Failure in reporting violation of the provisions of Schedule VI read with Section 211 of the Companies Act, 1956, with respect to disclosure of fixed deposits.

3. The Committee noted that the Respondent was present through Video Conferencing Mode. The Committee noted that the Respondent, in his submissions before it, mentioned that he had already submitted his defence in detail. The Committee noted that the Respondent, in his submissions, submitted that the amounts of related party transactions in the current year were properly disclosed and that the failure was in respect of the non-disclosure of figures of the previous year. As regards the charge relating to reporting the violation of AS-29, he submitted that the penalty was not actually levied by the Income Tax Department and there was no quantification of the penalty. He further submitted that a reference to MSME was inadvertently missed. The Respondent regarding the charge relating to the reporting requirement of fixed assets, submitted that the company had been following the same disclosure practice for the last 30-40 years. He further added that he is 66 years old and has 40 years of unblemished professional carrier. He accordingly requested to consider his case sympathetically.

4. The Committee further noted that the same matter was also heard by Regional Director, Western Region, MCA, Mumbai, wherein Sh. A.K. Chaturvedi, Regional Director, Western Region, Mumbai, ordered the Respondent to pay an amount of Rs. 5,000/- as compounding fees. The Committee noted that this fact was also admitted by the Respondent before it.

5. The Committee, while considering his oral submissions on record, noted that the lapses were more technical in nature and that no harm was caused to anyone. The Committee further noted that, though the lapses were purely unintentional and without any malafide intentions, the Respondent is still required to be more vigilant while discharging his professional duties. Accordingly, the Committee, looking into the gravity of the charge *vis-a-vis* submissions of the Respondent, decided to give a minimum punishment to the Respondent that commensurate with his misconduct in the instant matter.



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(Set up by an Act of Parliament)

[PPR/P/16/16/DD/324/INF/17-DC/1368/2020]

6. Therefore, keeping in view the facts and circumstances of the case, the material on record, and the submissions of the Respondent before it, the Committee ordered that the Respondent CA. Madhav Balwant Pol (M.No.035069), be reprimanded along with a fine of Rs.5,000/- (Rupees Five Thousand Only).

sd/-

(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

sd/-

(MRS. RANI NAIR, I.R.S. RETD.)  
GOVERNMENT NOMINEE

sd/-

(SHRI ARUN KUMAR, I.A.S. RETD.)  
GOVERNMENT NOMINEE

sd/-

(CA. SANJAY KUMAR AGARWAL)  
MEMBER

sd/-

(CA. SRIDHAR MUPPALA)  
MEMBER

DATE: 13<sup>th</sup> MAY, 2023  
PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

सीए श्रुति वर्ग / CA. Shruiti Bary  
सहायक निदेशक / Assistant Director  
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