

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2023-2024)]**

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

**Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No.: [PR/52/17-DD/71/2017/DC/1466/2021]**

**In the matter of:**

**Shri Ravi Prakash Sharma,  
21, Gagan Path, Suraj Nagar(W),  
Civil Lines,  
JAIPUR- 302 006**

**.....Complainant**

**Versus**

**CA. Vinay Kumar Sharma, (M. No. 079397)  
M/s. Kamlesh Khandelwal & Co., Chartered Accountants,  
D-34, Neelgiri Apartment,  
Saraswati Marg, Banipark,  
JAIPUR- 302 001**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Ranjeet Kumar Agarwal, Presiding Officer (present in person)**

**Smt. Rani Nair, Govt. Nominee (present in person)**

**Shri Arun Kumar, Govt. Nominee (present in person)**

**CA. Sridhar Muppala, Member (present in person)**

**DATE OF FINAL HEARING : 31.10.2023  
DATE OF JUDGEMENT : 14.12.2023**

**PARTIES PRESENT:**

**Complainant : Not Present**

**Respondent : CA. Vinay Kumar Sharma (Physically at Jaipur)**

**Counsel for Respondent : CA. C.V. Sajan (Through VC)**

**BACKGROUND OF THE CASE: -**

1. The brief background of the case is as under:

- a. That Shri Ravi Prakash Sharma, Secretary, M/s Baldev Club, Jaipur (*hereinafter* referred to as the “**Complainant**”) has filed complaint in Form ‘I’ dated 20<sup>th</sup> January’ 2017 against CA. Vinay Kumar Sharma (**M. No. 079397**) of M/s. Kamlesh Khandelwal & Co., Chartered Accountants, Jaipur (*hereinafter* referred to as the “**Respondent and Respondent Firm**” respectively).
- b. As per the Complainant, the Respondent audited the books of Jaipur District Football Association (*hereinafter* referred to as the “**Sangh**”) for the period from January 2011 to April 2016. But the Respondent claimed that attestation of Statement of Receipt and Payment was done as a one-time affair at the request of the office bearers of the Sangh.
- c. The charge in the present complaint is limited to amounts reflected in receipt nos. 206, 207, 208, 209 and 226 issued by the Sangh vis-a-vis their relevant entries reflected in the Cash book.
- d. According to the Complainant, these receipts were obtained by him through RTI.

**CHARGES IN BRIEF: -**

2. The Committee noted that it has been alleged against the Respondent was that the audit was not conducted by the Respondent properly due to which there was a shortfall in the amount being recorded in the books of Sangh, the following irregularities were observed in cash book: -

S. No.	Date	Receipt No.	Amount (Rs.)	Remarks
1.	10/10/2011	Rec. No. 206	1,100/-	In Receipt no. 206, the amount is shown as Rs.11,000 (Eleven thousand only) whereas in Cash Book it is shown as Rs. 1,100 only.  (Difference of Rs. 9,900)

2.	03/11/2022	Rec. No. 207, 208 and 209	1,100/- each	As per receipt no. 207, 208 and 209, the amount is Rs.11,000 each whereas in Cash Book it is shown as Rs. 1,100/- each.  (Difference of Rs. 9900 in each case)  (Total difference- Rs. 29,700)
3.	25/08/2012	Rec. no. 226	500/-	As per Receipt No. 226, the amount is Rs.10,000 whereas in Cash Book, it is shown as Rs. 500 only.  (Difference of Rs. 9,500)

3. The Committee noted that the Respondent at the stage of PFO had, inter-alia, mentioned as under:

- a. He has carefully examined the Cashbook and relevant vouchers/receipts/bills presented to him at the time of issuing certificate to Sangh, Jaipur. The deficiency pointed out by him at the time of examination was well explained to him and accordingly certification was done.
- b. He also stated that he has carefully gone through the allegations raised against him and it appears that there are some disputes between the officials of Sangh, Jaipur and the present complaint is filed with an intent to create nuisance for him.
- c. He further stated that during examination, receipt no. 206, 207, 208, 209 were numerically showing figures as 1,100/- but in words it was eleven thousand (11,000/-), for which he asked president and secretary of Sangh

and it was explained to him that might be due to mistake/human error, wrong amount was entered in words and receipt is of Rs. 1,100/- only.

- d. He stated that if needed, he could provide additional evidence of these receipts. Receipt no. 226 presented before him was of Rs. 500/- only as entered in cash book. After receipt of the complaint letter, he contacted the President and Secretary of the Sangh and asked them to give proof of receipts and evidence of payment of Rs. 1,100/-.

4. The Director (Discipline) had in his Prima Facie Opinion held the Respondent prima facie Guilty on the following grounds:

- a. That the Respondent produced on record the Affidavit Sh. April Dheer of A.J. Public School dated 5<sup>th</sup> March 2015 (as regard receipt no 207) and confirmation letter from Defence Public School dated 23<sup>rd</sup> March 2015 (as regard receipt no 208) to substantiate his defence that Rs. 1,100/- was received but inadvertently 1,1000/- was written in words, which have been procured by the Respondent from the Sangh after the receipt of the complaint from ICAI and were not available with the Respondent while he was verifying the records of the Sangh.
- b. The Director (Discipline) noted that as per receipt no 207 submitted on record by the Complainant, it was issued to S.J. Public school for an amount of Rs. 11,000/- received from it whereas as per the Affidavit Sh. April Dheer of A.J. Public School dated 5<sup>th</sup> March 2015 as regard receipt no 207 submitted on record by the Respondent, it was issued to A.J. Public School for an amount of 1,100/- written in figures and 11,000/- written in words.
- c. The Director (Discipline) while considering the aforesaid observation together with the statement of the Complainant that copy of documents submitted by him along with the extant complaint has been obtained through RTI, viewed that the Respondent has submitted fake and fabricated documents to support his defence.



- d. It is difficult to comprehend as to how more than one receipt can be issued by Sangh for the same amount received with different method of recording and thus hints upon fabrication of one set of receipts made available on record.
- e. It is further viewed that the Respondent has altogether failed to provide documentary evidence on record based on which he would have satisfied himself that the amount was correctly recorded in the cash book of the Sangh before carrying out the certification work based on the vouchers produced before him, except stating that he had sought oral clarification from the management of the Sangh.
- f. Thus, in light of above, the Director (Discipline) opined that the Respondent has not only failed to exercise due diligence while performing his professional duties but by attempting to submit fabricated documents to the Directorate to corroborate his defence is charged of bringing not only a disrepute to the profession of Chartered Accountants but also for submitting incorrect information to the Disciplinary Directorate of ICAI, thus, attracting provisions envisaged under Item 1 of Part II of the Second Schedule to the Chartered Accountant Act, 1949.
- g. The Director (Discipline) further noted that no reply has been given by the Respondent for Receipt no. 206 and 226 *wherein* amounts of Rs. 1,100/- and 500/- were entered in the cash book against corresponding receipt of Rs. 11,000/- and 10,000/- respectively by the Sangh except mentioning it to be a human error/mistake which is not acceptable as the Respondent has neither produced on record any communication made by him with the Sangh raising his queries as regard the discrepancies noted by him in the records of the Sangh nor any reply which would have been submitted by the Sangh in this regard has been produced.
- h. The Respondent has even failed to substantiate the procedures which would have been adopted by him while carrying out the certification work

except stating that he had sought oral clarification from the management of the Sangh.

- i. Further to above, considering the size of Receipt and Payment Account of Sangh for calendar years 2011, 2012, 2013, 2014 and 2015, the amount of Rs. 11,000/- and 10,000/- is quite material which undoubtedly had an adverse impact on true and fair view reflected by the cash book as regard receipts by the Sangh for the year 2011 and 2012 to which the receipts in question pertains to and for which certification of cash book was carried out by the Respondent.
  - j. It is, thus, viewed that the Respondent has failed to verify the records before putting his signature on the cashbook of the Sangh and thus has failed to exercise due diligence in carrying out his professional duties which has resulted in a much lesser amount being accounted for/recorded in the cash book of the Sangh to its financial detriment.
  - k. In view of the above, The Director (Discipline) held the Respondent **GUILTY** for Professional and Other Misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.
5. The said items in the Schedules to the Chartered Accountants Act, 1949 *wherein* the Respondent was held prima-facie Guilty by the Committee states as under –

**The Second Schedule**

**Part I (Professional misconduct in relation to chartered accountants in practice)**

*"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he–*

*Item (7). does not exercise due diligence, or is grossly negligent in the conduct of his professional duties".*

**PART II (Professional misconduct in relation to members of the Institute generally)**

*“A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—*

*Item (1). contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines<sup>3</sup> issued by the Council”.*

**The First Schedule**

**PART IV (Other misconduct in relation to members of the Institute generally)**

*“A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he—*

*Item (2). in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work”.*

**SUBMISSIONS OF THE RESPONDENT ON THE PRIMA-FACIE OPINION**

6. The Committee noted that the Respondent in his submissions dated 25<sup>th</sup> October' 2021 had, inter-alia, mentioned as under:

- a. The amounts in words in all four receipts (206, 207, 208 and 209) with Rs. 1,100/- recorded in cash book were actually for Rs. 1,100.00 each only.
- b. He was not the auditor of the Sangh, as claimed by the Complainant. The attestation of Statement of Receipt and Payment was done as a one-time affair at the request of the office bearers of the Sangh. He acted as an unsuspecting professional, more particularly because it was a small entity with nominal number of transactions and activities.

*As*

- c. The office bearers have collected back certain original Receipts from the payers concerned. Bare perusal of those original Receipts undoubtedly establish that tampering was done to create false evidence.
- d. As far as the attestation, of the extract of the Cash book is concerned, at the time of attestation the office copy of the Receipt No 226 had only Rs. 500 on it.
- e. The Complainant had submitted tampered documents with the ICAI. The complainant must be put to strict proof to establish correctness in their claim. Any inherent discrepancy including tampering done at any level to the documents would essentially affect the genuineness of the documents, regardless of the source of the same whether through RTI or not.
- f. There was no regulatory requirement that he should have retained copies of the Cash book or Receipts in his possession as evidence of the verification. For an attestation that requires only a very basic verification process, such as the one in question, requirement of audit documentation under SA 230 and audit evidence under SA 500 get satisfied with a process described above and internal notes with respect to the job undertaken.
7. Further, the Respondent *vide* letter dated 01<sup>st</sup> August 2022 had, inter-alia, submitted that:
- a. Although the amount written in words in all four receipts was eleven thousand, instead of eleven hundred, which was a clerical error, the amount in figures was Rs. 1,100/- in all the receipts and it is apparent that the documents submitted by the complainant were hence tampered ones.
- b. He also submitted that the then three office bearers of the Society through an Affidavit have substantiated that in all those four receipts, the amount actually received was Rs. 1,100/- each, as recorded in the Cash Book. The

Respondent also submitted the following documents along with the above-mentioned letter-

- i. Photocopies of Originals (*not counter foils*) of Receipts No. 206, 207, 208 and 209 that are matters of allegation,
- ii. Affidavit by office bearers of the Society, and
- iii. Letter of Authority for the Authorized Representative.

**BRIEF FACTS OF THE PROCEEDINGS: -**

8. The Committee noted that the instant case was fixed for hearing on following dates:

S. No.	Date	Status of Hearing
1.	05.08.2022	Part Heard & Adjourned
2.	18.09.2023	Adjourned in absence of both the parties
3.	31.10.2023	Concluded & Judgement Reserved
4.	14.12.2023	Final Decision taken on the case.

9. On the day of the first hearing held on 05<sup>th</sup> August 2022, the Committee noted the Complainant was not present, and no intimation was received from him in reply of notice duly served. The Committee noted that the Counsel for the Respondent, Mr. C.V. Sajan was present through Video Conferencing Mode. Thereafter, the Committee enquired from the Respondent's Counsel as to whether he was aware of the charges against his client. On the same, the Counsel for the Respondent replied in the affirmative and pleaded Not Guilty to the charges levelled against his client. Thereafter, looking into the fact that this was the first hearing, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard & adjourned.

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10. On the day of second hearing held on 18<sup>th</sup> September 2023, the Committee noted that both the parties were not present, and no intimation was received from their end despite notice/email duly served upon them. The Committee, in the absence of both parties, decided to provide one more opportunity to the parties to represent their matter. Accordingly, the instant matter was adjourned to a future date.
11. On the day of final hearing dated 31<sup>st</sup> October 2023, the Committee noted that the Respondent was present physically at Jaipur and his counsel, CA. C.V. Sajan was also present (Through VC). The Committee further noted that the Complainant was not present.
- 11.1 At the outset, the Committee enquired from the Respondent that since the composition of the Committee had changed further from the previous hearing, as to whether he wished to have a de-novo hearing. On the same, the Respondent's Counsel submitted that the Committee may continue its proceedings in this matter from the stage it was left at the last hearing. The Committee acceded to his request and continued the hearing.
- 11.2 Thereafter, the Respondent's Counsel submitted that the Complainant is from rival group of football association and had altered the receipts of the Association. He further submitted that the Respondent had checked receipts and vouchers and had collected original receipts from the association.
- 11.3 The Respondent also submitted original receipts no. 206, 207, 208 and 209 to strengthen his defence. Further, the Committee compared the original receipts with the photocopy of receipts enclosed by the Complainant with the complaint.
- 11.4 Upon consideration of the same, the Committee gave directions to the Respondent to submit the following documents-
- i. Affidavit from the President of Jaipur District football association regarding Receipt No. 226.



- 11.5 After considering the documents available on record and the submissions made by the Respondent and his Counsel, the Committee decided to conclude the hearing and reserved its judgment.
12. Thereafter, this matter was placed in meeting held on 14<sup>th</sup> December' 2023 for consideration of the facts and arriving at a decision by the Committee. The Committee noted that pursuant to its directions given in the hearing held on 31<sup>st</sup> October 2023, the Respondent has submitted an Affidavit from the officers bearers of the Sangh regarding Receipt No. 226.
- 12.1 Accordingly, keeping in view the facts and circumstances of the case, the material on record and the submissions of the parties, the Committee passed its judgement.

**FINDINGS OF THE COMMITTEE: -**

13. The Committee noted that the charge against the Respondent was of not exercising due diligence as various irregularities were observed in Cash Book as amount reflected in various Receipts issued by the Sangh i.e., Jaipur District Football Association, as the same were not matching with the entries shown in the Cash Book due to which there was a shortfall in the amount being recorded in the books of Sangh.
- 13.1 The Committee noted that the issue involved pertains to the difference between the amounts mentioned in Receipts No. 206, 207, 208, 209 & 226 as the amount mentioned in 'numerical digits' and then 'in words', both appears to be different in each Receipt.
14. The Committee noted that the Respondent in his defence has, inter-alia, submitted the following documents -
- i. Photocopies of Originals (*not counter foils*) of Receipts No. 206, 207, 208 and 209 that are matters of allegation, and
  - ii. Affidavit by office bearers of the Society.

15. The Committee perused the receipts enclosed by the Complainant with the complaint with the copy of original receipts produced by the Respondent at later stage as under:

15.1 Receipt No. 206

- a. Copy of counterfoil submitted with the complaint by the Complainant

206 A.S.M. (S.C.) 10/11

11000/- (असह्यदिमान्यता)

Eleven thousand only

- b. Original receipt Submitted by the Respondent

 जिला फुटबाल संघ, जयपुर \*  
(राजस्थान फुटबाल संघ से मान्यता प्राप्त)

क्रमांक सं. 206 रसिद दिनांक 10/11

नाम A.S.M. (S.C.)

1. प्रवेश शुल्क 11000/- (असह्यदिमान्यता)

2. वार्षिक शुल्क वर्ष

3. प्रतियोगिता शुल्क

4. सहयोग राशि

5.

रूपये अंक Eleven thousand only सघ-न्यवाद प्राप्त हुए।

ह. प्राप्तकर्ता

As

15.2 Receipt No. 207

a. Copy of counterfoil submitted with the complaint by the Complainant.

207 S. J. Public School

1100/- (असथाई मान्यता)

3 1/2

रजिस्ट्रार संस्थाएं

eleven thousand only

b. Original receipt Submitted by the Respondent

 **जिला फुटबाल संघ, जयपुर** \*

(राजस्थान फुटबाल संघ से मान्यता प्राप्त)

रजिस्ट्रार संस्थाएं

क्रमांक सं 207 S. J. Public School दिनांक 3 1/2

नाम

1. प्रवेश शुल्क 1100/- (असथाई मान्यता)

2. वार्षिक शुल्क वर्ष

3. प्रतियोगिता शुल्क

4. सहयोग राशि

5.

रुपये अंके eleven thousand only

संवेदन्यता प्राप्त हुए।

प्राप्तक

Ans

15.3 Receipt No. 208

a. Copy of counterfoil submitted with the complaint by the Complainant.

208 Defence A

11000/- (अस्वास्थ्य मान्यता)

16/11

eleven thousand only

b. Original receipt Submitted by the Respondent

 **जिला फुटबाल संघ, जयपुर**  (राजस्थान फुटबाल संघ से मान्यता प्राप्त)

रसिद दिनांक 16/11

क्रमांक सं. 208 नाम Defence A

1. प्रवेश शुल्क 11000/- (अस्वास्थ्य मान्यता)

2. वार्षिक शुल्क वर्ष

3. प्रतियोगिता शुल्क

4. सहयोग राशि

5.

रुपये अंके eleven thousand only सिधन्यवाद प्राप्त हुए।



15.5 The Committee on perusal of both receipt noted that there was a clerical error in writing the amount of Rs. 1,100/- in word format i.e., 'eleven hundred rupees'. The said amount was wrongly noted as 'eleven thousand rupees'. Further, the original receipts shows amount of Rs. 1,100.00 in words whereas the receipts produced on record by the Complainant are clearly tampered as the amount in words in those receipts is mentioned as 11,000.00.

15.6 The Committee noted that the Respondent has also submitted an affidavit from the President, Secretary and Treasurer of the Sangh (Society) whereby they have voluntarily submitted that-

*'Shri Vinay Kumar Sharma, Chartered Accountant was requested to verify the cash book of Jaipur Football Association, Jaipur for the period of January 2011 to April 2016, Receipt No. 206 dated 10.10.2011, Receipt No. 207 dated 03.11.2011, Receipt No. 208 dated 16.11.2011 and Receipt No. 209 dated 25.11.2011 were towards the amount of Rs. 1,100/- (eleven hundred rupees). The said amount was taken for temporary membership of the tournament, and it was made clear that in the words instead of Rs. 1,100/-, eleven thousand was written which is a clerical error. Only an amount of Rs. 1,100/- has been entered in the cash book.'*

15.7 The Committee, on perusal of the same, noted that the Sangh itself admitted that the amount in receipt nos. 206, 207 208 and 209 was Rs. 1,100/- each only.

15.8 The Committee also noted that amount of Rs. 1,100/- each was also reflecting in the cash book of the Sangh with respect of above receipts.

15.9 The Committee noted that even though the discrepancy involved in the present case is not enormous, but it caused a shortfall in the amount being recorded in the books of Sangh. However, on perusal of the documents available on record it becomes clear that the Complainant has not provided true documents with the complaint and as a result he was unable to make a substantial case against the Respondent.



15.10 The Committee also noted that the Complainant was never present before it, despite multiple opportunities given to him. The Committee in absence of any rebuttal by the Complainant accepted the view of the Respondent and holds him **Not Guilty** with respect to receipt no. 206, 207, 208 and 209.

16. As regards receipts number 226 is concerned, the Committee noted that though the Respondent was not able to bring on record original copy of the same, however he has submitted an affidavit from the President, Secretary and Treasurer of the Sangh (Society) whereby they have voluntarily submitted that:

*'Shri Vinay Kumar Sharma, Chartered Accountant was requested to verify the cash book of Jaipur Football Association, Jaipur for the period of January 2011 to April 2016 wherein Receipt No. 226 dated 25.08.2012 were towards the amount of Rs. 500/- (five hundred rupees). The said amount was taken for temporary membership of the tournament, and the same is entered on page no. 22 of the Cash Book'*

16.1 The Committee, on perusal of page no 22 of cash book, noted that amount of Rs. 500/- was also reflecting in the cash book of the Sangh with respect to receipt no. 226.

16.2 The Committee also noted that the Complainant was never present before it, despite multiple opportunities given to him. The Committee in absence of any rebuttal by the Complainant, accepted the view presented by the Respondent and holds him **Not Guilty** with respect to receipt no. 226.

17. The committee noted that although the contention and documents of the Respondent are being validated/ supported by the Sangh, but he needs to be extra vigilant and thorough while rendering his services. It is advised to the Respondent to avoid any such omissions as done in the present case. Being a professional, it is his duty to act in a cautious manner.

**CONCLUSION**

18. In view of the above observations, considering the submissions of the Respondent and documents on record, the Committee held the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

**ORDER**

19. Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case against the Respondent.

SD/-  
(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

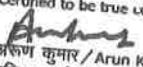
SD/-  
(MRS. RANI NAIR, I.R.S. RETD.)  
GOVERNMENT NOMINEE

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

SD/-  
(CA. SRIDHAR MUPPALA)  
MEMBER

DATE: 07<sup>TH</sup> FEBRUARY, 2024

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy  
  
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इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
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