



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

Date of Pronouncement – 23.01.2024

PPR/G/03/18/DD/03/INF/20-DC/1590/2022

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 WITH REGARD TO PUNISHMENT.

[PPR/G/03/18/DD/03/INF/20-DC/1590/2022]

In the matter of:

CA. Manojkumar Ganeshmal Jain (M. No. 509515)

D-219, D Wing,

International Trade Centre,

Majura Gate, Ring Road,

Surat - 395 002

.....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)

1. The Committee noted that the Respondent has been held guilty vide findings dated 14.12.2023 (Ref no. PPR/G/03/18/DD/03/INF/20-DC/1590/2022). The said findings holding him guilty were duly communicated to the Respondent. **This is with regard to M/s Kanika Gems Private Limited.** The findings of the Committee whereby the Respondent had been held guilty are as below:-

"FINDINGS OF THE COMMITTEE

FIRST CHARGE BY DIRECTOR (DISCIPLINE)

13. The Committee noted that the first charge relates to improper/ misleading reporting regarding maintenance of cost records in his report for the financial year 2014-15. The Committee noted that the relevant extracts of Paragraph 3(vi) of Companies (Auditor's Report) Order, 2015 states as under:

"Where maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 whether such accounts and records have been made and maintained."



13.1 The Committee noted that the Respondent in his audit report for the financial year 2014-15 in para (8), had mentioned as under:

"...we have broadly reviewed the books of accounts maintained by the Company pursuant to the order made by the Central government of India for maintenance of cost records under section 209(1)(d) of the Companies Act, 1956 and are of opinion that prima facie the prescribed accounts and records have been maintained".

13.2 From the above vis-à-vis submissions of the Respondent, the Committee noted that the Company was engaged in trading of diamonds, however as per the provisions of the Companies Act/ Rules, maintenance of cost records is applicable to the concerns engaged in manufacturing activity. Hence, the Respondent was required to mention in his CARO report that maintenance of cost records is not applicable on the Company.

13.3 The Committee noted that the Respondent had referred to the provisions of Companies Act, 1956. However, the matter pertains to the financial year 2014-15 for which the provisions of the Companies Act 2013 were applicable.

13.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that the Respondent was casual in his approach while issuing his audit report as Statutory auditor of the Company for FY 2014-15. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SECOND CHARGE BY DIRECTOR (DISCIPLINE)

14. The Committee noted that second charge is that Respondent in his CARO reporting has not reported about the amount required to be transferred to the Investor Education and Protection Fund (IEPF) in his report for financial year 2014-15. The Committee noted that the relevant extracts of Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015 states as under:

"Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made there under has been transferred to such fund within time."

14.1 The Committee noted that instead of mentioning about the same in CARO reporting, the Respondent his audit report for the financial year 2014-15 in para 9(a), had mentioned as under:

"The Company has been regular in depositing undisputed statutory dues including provident fund, Investor Education and Protection fund, Employees State Insurance, Income Tax, sales tax, wealth tax, service tax, custom duty, excise duty, cess and other statutory dues with the appropriate authorities during the year. According to the information and explanations given to us, no undisputed amount payable in respect of the aforesaid dues were outstanding as at March 31, 2015 for period of more than six months from the date of becoming payable".

14.2 The Committee noted that Respondent was mandatorily required to report the same separately under CARO 2015 as per Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015.



14.3 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that although such type of error neither affects the true and fair view nor affects the decision making of any user of the financial statement of the Company, however the same reflects upon the casual approach of the Respondent while reporting on CARO 2015 which cannot be ignored. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

THIRD CHARGE BY DIRECTOR (DISCIPLINE)

15. The Committee noted that the third charge is related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade Payables as on 31st March 2014 (appearing in previous years' figures of the Financial Statements of 31st March 2015). The Committee on perusal of records noted that in the Balance Sheet for the year ended 31st March 2015 (filed with Income Tax Department), trade payables were shown as Rs 181,80,45,710/- and in the previous year (i.e., on 31st March 2014) trade payables were shown in bracket as Rs (145, 46,47,372/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be treated as "Other Current Assets" rather than Trade payable/creditors.

15.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

15.2 The Committee noted that general instructions for preparation of Balance Sheet has been given in Schedule III of the Companies Act, 2013 and point 5 of such instructions specifically mentioned as under:

"A payable shall be classified as a —trade payable if it is in respect of the amount due on account of goods purchased or services received in the normal course of business."

15.3 Accordingly, the amounts which are due on account of goods purchased or services received are required to be mentioned under the head "Trade Payable" and since advance paid to suppliers does not fall under the above classification, hence, the same should have been disclosed under the head advances paid to suppliers against goods.

15.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act. The Committee further noted that the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31st March 2015 (with respect to disclosure of Trade Payable under Sundry Creditors). Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.



FOURTH CHARGE BY DIRECTOR (DISCIPLINE)

16. The Committee noted that fourth charges related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade receivables as on 31st March 2014 (appearing in previous years' figures of the Financial Statements of 31st March 2015). The Committee on perusal of records noted that in the Balance Sheet for the year ended 31st March 2015 (filed with Income Tax Department), trade receivables were shown as Rs 161,84,50,543/- and in the previous year (i.e., on 31st March 2014) trade receivables were shown in bracket as Rs (196,48,36,915/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be treated as "Other Current Liability" rather than trade receivables/debtors.

16.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

16.2 The Committee noted that general instructions for preparation of balance sheet has been given in Schedule III of the Companies Act, 2013 and point 5 of such instructions specifically mentioned as under:

"A receivable shall be classified as a —trade receivable if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business."

16.3 Accordingly, the amounts which are due on account of goods sold or services rendered are required to be mentioned under the head "Trade Receivable" since advance received from customer does not fall under the above classification, the same should be disclosed under the head advances received from customers against goods.

16.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that such type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act and the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31st March 2015 (with respect to disclosure of Trade Payable under sundry debtors). Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FIFTH CHARGE BY DIRECTOR (DISCIPLINE)

17. The Committee noted that the fifth charge is regarding mismatch of figures and details given in the Cash Flow and Balance Sheet for the financial year ended 31st March 2014 submitted with the MCA and the Income Tax. The Committee noted that as per the charge in XBRL reporting under the Cash Flow Statement, net cash flow from operating activities was disclosed as Rs 12,28,62,949/- whereas in the Cash flow statement filed with the Income Tax Department, it was



Rs 12,28,84,443/-. Therefore, there is a difference of amount of Rs 21,494/- which was due to fact that in XBRL reporting, a transaction 'Income Tax Refund' was reflecting whereas in the Cash Flow Statement filed with the Income Tax Department this was not shown and this difference was shown as Provision of Tax under the head of Short-Term Provisions.

17.1 The Committee in this regard noted that AS-3 "Cash Flow Statement" with regard to the taxes on income are mentioned as under-

"Cash flows arising from taxes on income should be separately disclosed and should be classified as cash flows from operating activities unless they can be specifically identified with financing and investing activities".

17.2 The Committee in view of the above extracts of the AS-3, vis-à-vis the acceptance of the mistake by the Respondent, noted that taxes paid are usually classified as cash flow from operating activities and it is apparent that the Respondent failed to mention amounts of Rs. 21,494/- under the head cash flow from operating activity in Cash flow statement filed with the Income Tax Authority. Accordingly, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SIXTH CHARGE BY DIRECTOR (DISCIPLINE)

18. The Committee noted that the sixth charge is that no details of Related party transactions have been mentioned in the set filed with Income Tax for the financial year ended 31st March 2014. The Committee noted that the Respondent in his Written Statement stated that in point no. 11 of notes to accounts mentioned that "Balances of advances with relatives of directors and companies under the same management within the meaning of section 370(1)(B) of the Companies Act, 1956 are NIL".

18.1 The Committee in this regard noted that management had given the necessary disclosure regarding related party transactions in XBRL report of the Company but failed to disclose related party transactions in balance sheet filled with the income tax authority.

18.2 The Committee, in view of acceptance of the mistake by the Respondent vis-à-vis the fact that the Respondent being a statutory auditor of the Company failed to point out that the Company, has not properly disclosed Related party Transaction as per AS-18, noted that the Respondent was not only grossly negligent in duties but also failed to report known material fact in the financial statement. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item(s) (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SEVENTH CHARGE BY DIRECTOR (DISCIPLINE)

19. The Committee noted that the seventh charge is that there is difference in figures of Trade payable and Total liabilities in the set for the financial year ended 31st March 2014 submitted with MCA and the Income Tax.



19.1 The Committee noted that in the XBRL balance sheet the total of liability and assets were mentioned as Rs 198,37,70,520 /- whereas in the balance sheet filed with the Income Tax Department the total of liability and assets were mentioned in the brackets as (Rs 143,57,13,767/-). The Committee further noted that Respondent in his submissions in this regard mentioned that reason of the negative balance is that the Company had paid advances to its suppliers for the purchase of diamonds. However, the same could not be delivered by the concerned suppliers. He further submitted that XBRL schema did not allow filing negative figures under the head Trade payables and therefore, advance received from customers is disclosed under the head "Other Current liability" and advance paid to suppliers disclosed under the head "Other Current Assets".

19.2 The Committee noted that findings relating to similar charge had been given para 15 to 15.4 above wherein it is concluded by the Committee that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act 2013. The Committee also viewed that the Respondent should have mentioned the figures as advance paid to supplier which should have been better and correct presentation. Looking into the findings given above vis-à-vis admission of the Respondent, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.

EIGHTH CHARGE BY DIRECTOR (DISCIPLINE)

20. The Committee noted that the eighth charge is that there is difference in figures of Trade receivables and Total assets in the set for the financial year ended 31st March 2014 submitted with MCA and the Income Tax.

20.1 The Committee noted that in the XBRL balance sheet the total of liability and assets were mentioned as Rs 198,37,70,520 /- whereas in the balance sheet filed with the Income Tax Department the total of liability and assets were mentioned in the brackets as (Rs 143,57,13,767/-). The Committee further noted that Respondent in his submissions in this regard mentioned that the reason of the negative balance is that the Company had received advances from its customer to fulfil their demand for diamonds. However, the same could not be delivered to the customers. He further submitted that XBRL schema did not allow filing negative figures under the head Trade receivables and therefore, advance received from customers is disclosed under the head "Other Current Liability" and advance paid to suppliers disclosed under the head "Other Current Assets".

20.2 The Committee noted that findings relating to similar charge had been given para 16 to 16.4 above wherein it is concluded by the Committee that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act 2013. The Committee also viewed that the Respondent should have mentioned the figures as advance received from customers which should have been better and correct presentation. Looking into the findings given above vis-à-vis admission of the Respondent, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.



21. The Committee noted that the ninth and last charge is that in the financials for the financial year 31st March 2015 as per Note 8 of Notes to Accounts, the heading is Short term Borrowings, whereas as per Balance Sheet, the heading is Short term Loans and Advances.

21.1 The Committee noted that the correct heading as per Schedule III of the Companies Act 2013, is "short-term borrowings" and the same needs to be mentioned under the main head "Current Liabilities". However, on the face of Balance Sheet, main heading is given as "Short Term Loan and Advances" which is not a valid disclosure as per Schedule III of the Companies Act 2013.

21.2 The Committee noted that the Respondent, being statutory auditor, failed to highlight the violation of section 129 read with Schedule III Part I of Companies Act, 2013 in his audit report which reflects upon the casual approach of the Respondent. The said fact was accepted by the Respondent in his submissions also. Accordingly, the Respondent is held prima facie GUILTY on this charge for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION

22. In view of the above findings stated in the above para's vis-à-vis material on record, the Committee, in its considered opinion, holds the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5) & (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949. "

2. After communication of the aforesaid findings of the Committee dated 14.12.2023, the Respondent was called by the Committee to appear before it on 09.01.2024 and to make his submissions / representations under Rule 19(1) of the Chartered Accountants (Procedures of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 on quantum of punishment. The Respondent appeared on 09.01.2024 and submitted his representations with regard to quantum of punishment as under:-

- a. He had admitted his mistakes right from his initial submissions.
- b. That he had learnt a lesson and would take every care to ensure that such mistakes are not repeated.
- c. That he had nothing to argue, and he would not like to waste the Hon'ble Committee's time in meaningless arguments.
- d. That he is 40-years-old and had qualified in the year 2007, and when he had signed the impugned financial statements for financial year 2013-14, he was about 30 years old and it was only the 6th year of his practice.
- e. There was no gross negligence and no misconduct.



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f. He admitted his lack of knowledge and pleaded for mercy, mistakes were not committed knowingly or deliberately. He requested that the mildest possible punishment be awarded to him.

3. After careful consideration of the facts and circumstances, material on record and submissions of the Respondent before it as well his submissions made on 09.1.2024, the Committee decided to reprimand the Respondent along with a fine of Rs.25,000/- (Rupees Twenty Five Thousand Only) on the Respondent, to be paid within 90 days of receipt of the said Order.

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

DATE: 23.01.2024
PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
Nitika Gupta
सीए नीतिका गुप्ता / CA. Nitika Gupta
सहायक निदेशक / Assistant Director
अनुशासनान्तक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

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

[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/G/03/2018-DD/03/INF/2020/DC/1590/2022]

In the matter of CA. Manojkumar Ganeshmal Jain (M.No.509515), Surat (Gujarat)

in Re:

CA. Manojkumar Ganeshmal Jain (M. No. 509515)

D-219, D Wing,

International Trade Centre,

Majura Gate, Ring Road,

Surat - 395 002

.....Respondent

MEMBERS PRESENT:

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

Mrs. Rani S. Nair, I.R.S. (Retd.), Government Nominee (Present in person)

Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)

CA. Sridhar Muppala, Member (Present in person)

DATE OF FINAL HEARING : 13.09.2023 (through physical/video conferencing mode)

PARTIES PRESENT

RESPONDENT:

CA. MANOJKUMAR GANESHMAL JAIN

(Through Video Conferencing Mode) 

BACKGROUND OF THE CASE: -

1. The brief background of the case is that a letter No. ROC/Guj/Insp. 206(5)/STAN/Kanika/8343 dated 31st January, 2018 was received from Shri V.K. Khubchandani, Registrar of Companies, Gujarat, Dadra and Nagar Haveli, Ministry of Corporate Affairs (hereinafter referred as "**Informant**") against the Respondent. On receiving the aforesaid letter, the Informant was requested vide letter dated 7th March, 2018, followed by reminders letter/email dated 7th August, 2018 and 13th February, 2019 to file a formal complaint in prescribed Form 'I' in triplicate along with all supporting documents, if any. The Informant did not file the same despite the aforesaid reminders.
2. That the Informant, Shri V.K. Khubchandani, Registrar of Companies, Gujarat, Dadra and Nagar Haveli, Ministry of Corporate Affairs, in the instant matter, has informed that the Respondent was the auditor of M/s Kanika Gems Private Limited (hereinafter referred to as '**Company**') for the financial year 2013-14 & 2014-15. The Informant has conducted the inspection of the Company on the basis of defaults in repayment of bank loans including from public sector bank and indulging in fraudulent activities through manipulation of books of accounts, dubious import transactions, misappropriation and diversion of funds and found various violations which involved professional misconduct by statutory auditor.
3. The financial statements of the Financial Year 2013-14 of M/s Kanika Gems Pvt. Ltd. (hereinafter referred as "**Company**") were downloaded from the MCA site by the Disciplinary Directorate. On overall examination of the documents available on record, the matter has been decided to be treated as "Information" within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (hereinafter referred to as '**Rules**').

CHARGE SHEET

4. The Committee noted that various instances of professional misconduct were highlighted by the Informant which were as under:

S. no	Charge	View of Director (Discipline)
1.	No director or registered office of the Company was found at the address given on MCA record hence the balance sheet submitted by Respondent with ROC and Income Tax Department is wrong and fabricated	Held Not Guilty
2.	Improper/ misleading reporting regarding maintenance of cost records in his report for financial year 2014-15	Held Guilty
3.	The Respondent has not reported about the amount required to be transferred to the Investor Education and Protection Fund (IEPF) in his report for the financial year 2014-15 in CARO reporting	Held Guilty
4.	Non-compliance of clause 4(xiii), (xiv) and (xix) of CARO 2015	Held Not Guilty
5.	Non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade Payables, as on 31.03.2014	Held Guilty
6.	Non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade receivables as on 31.03.2014	Held Guilty

	Reporting as Per Part 2 of Notes to Accounts is Held Not Guilty financial statements for the year ending 31.03.2015 is not correct	
8.	Mismatch of figures and details given in Cash Flow and Balance Sheet for the financial year ended 31.03.2014, submitted with the MCA and the Income Tax Department as there is difference in cash flow of Rs. 21494/- because in the Cash Flow statement sent in XBRL this figure is shown as the Income Tax Refund whereas in set filed with Income Tax the same is not shown in cash flow statement	Held Guilty
9.	No details related to Related party transactions has been mentioned in the set filed with Income Tax for the financial year ended 31.03.2014	Held Guilty
10.	There is difference in figures of Trade payable and Total liabilities in the set for financial year ended 31.03.2014 submitted with MCA and the Income Tax	Held Guilty
11.	There is difference in figures of Trade receivables and Total assets in the set for financial year ended 31.03.2014 submitted with MCA and the Income Tax	Held Guilty
12.	Mismatch in information provided in product description column in XBRL Balance Sheet and information pursuant to the provision of Part IV of Schedule VI of the Companies Act, 1956 as in XBRL balance Sheet the same is mentioned as "Trading in rough diamonds" whereas in information pursuant to the provision of Part IV of Schedule VI of the Companies Act, 1956 the Company mentioned "Not Applicable" in the product description column	Held Not Guilty

	<p>The Respondent failed to disclose regarding information to ROC that he had been appointed as auditor of the Company to conduct audit of books of accounts for the period from 01.04.2013 to 31.03.2014. Thus, there is violation of section 224(1A) punishable under section 629A of the Companies Act, 1956</p>	
14.	<p>Not provide reason for mentioning in para (e) under his audit Report for the FY 2014-15 on the other legal and regulatory requirements that "may have an adverse effect on the functioning of the Company"</p>	Held Not Guilty
15.	<p>The Company failed to comply with clause (i) and (j) of section 134(3) of the Companies Act, 2013 and to attach the copy of the MGT-9 as required by section 134(3)(a) of the companies Act, 2013 with the financial statement for the year 2014-15 however the Respondent fails to point out the same</p>	Held Not Guilty
16.	<p>Failure to mention the previous year figures in Cash Flow Statement and to prepare a statement of changes in equity as per section 129 read with 2(40) of the Companies Act, 2013</p>	Held Not Guilty
17.	<p>It is not clear that whether the figures mentioned in financial statements were in Rs or not</p>	Held Not Guilty
18.	<p>In the financials for the financial year 31.03.2015, as per Note 8 of Notes to Accounts, the heading is Short term Borrowings, whereas as per Balance Sheet, the heading is Short term Loans and Advances</p>	Held Guilty
19.	<p>Wrong statements made in Clause 12 and 13 of Significant Accounting Policies as the statements in said clauses are related to Companies Act, 1956</p>	Held Not Guilty

However, Companies Act, 2013 is applicable on the
Company

5. The Committee noted that the Respondent at the stage of PFO had inter-alia submitted as under:
- a. That after completion of audit, the financial documents, bills and vouchers was returned to Company so he was unable to provide the same to the Inspection Officer. The Respondent also stated that he had financial data of the Company in electronic form, which he had duly provided to the Inspection officer. The Respondent also stated that he had done audit for the financial year 2013-14 and 2014-15 and inspection was initiated after completion of his tenure therefore, he could not be held liable for any event occurred after the tenure completed.
 - b. That he carried out the Company audit on the basis of books of accounts and documents provided to him by the directors of the Company and he had visited the registered office of the Company at the time of audit and directors were duly operated business from the premises.
 - c. The Company was engaged in trading of diamonds however maintenance of cost records is applicable to the concerns engaged in manufacturing activity. Hence, it is very clear that maintenance of cost records is not applicable to the concerned company. Further, he had reported the same aspect but due to typing mistake there remain the reference of section of Companies Act, 1956. The Respondent also stated that being initial year of implementation of new Companies Act as well as CARO, 2015, there were some typing error i.e., reference to previous Companies Act provisions.
 - d. That reporting for all statutory dues, disputed and undisputed, applicable to the company had been duly reported by him in this point no. 9. Further in the XBRL schema there was no such specific clause to report about amount to be transferred to the IPEF. Hence, in XBRL from filled with ROC, the same was covered in clause of statutory dues
 - e. The Company was engaged in the business of export, import, trading of rough and polished diamond. Many times buyer requested for special type of diamond to vendors and during the year ended on 31.03.2014, the company had paid advances to its suppliers for purchase of diamonds. However, the

same could not be delivered by the concern suppliers. Purchases and payments were duly accessible from books of accounts, bank statements etc. produced before him for verification at the time of audit. Therefore, as per general accounting practice, he had shown the same under the head "Trade Payables" only with negative figures being advance paid to supplier.

- f. During the year ended on 31.03.2014, the company had received advances from its customers to fulfil their demand of diamonds. However, the same could not be delivered by the concern suppliers. Therefore, as per general accounting practice, he had shown the same under the head "Trade Receivables" only with negative figures being advance received from customers.
- g. In the XBRL format, Cash flow statement reflects the correct figures. However, cash flow statement attached with the audit report has the arithmetical calculation mistake. In the later cash flow, the amount for "Income tax paid" worth Rs. 21,494/- was unintentionally left to mention.
- h. There was no prescribed format for disclosures of related party transaction in "notes to accounts". Hence, non-disclosure of related party was not to be considered as knowingly he did not concealed any information. Further, all related party disclosures were duly done in XBRL form where it has been specifically asked in detail to mention. Also, disclosure was duly done in tax audit report considering the related party under Income Tax Act, 1961.
- i. During the year ended on 31st March 2014, the company had paid advances to its suppliers for purchase of diamonds. Hence, there were negative trade payables outstanding in the balance sheet being advance paid to suppliers. Further, the balance sheet in XBRL schema didn't allow filling negative figures against the head "trade payables". Thus, being advance paid to suppliers, he had disclosed the same under the head "trade receivables". The same treatment was done with advance received from customers i.e., in XBRL balance sheet filled with MCA, trade receivables were shown under the head "trade payables". Thus, apparently, the total of equity and liability were different in the balance sheet filled with the MCA and Income Tax Authorities. But, in actual no such difference existed as well as no two sets of balance sheet prepared/submitted.

1. As stated in the balance sheet as at 31.03.2015, note no. 8 is related to "short-term loans and advances". On face of balance sheet, correct reference is given for figures of related notes to accounts no. 8. Also, in sub-head to note no. 8, it was mentioned as "other short term loans and advances". However, there is left typing error in heading of note no. 8, that is, mistakenly it is typed as "short-term borrowings" instead of "short-term loans and advances".

6. The Director (Discipline) had, in his Prima Facie Opinion held Respondent prima-facie guilty on following allegations:

- a. Improper/ misleading reporting regarding maintenance of cost records in his report for financial year 2014-15: The Director (Discipline) in the prima-facie opinion observed that requirement of Clause 3(vi) of CARO 2015 is to report about applicability/non-applicability of maintenance of cost records, whereas the Respondent in his reporting has mentioned that cost records are maintained which shows his casual approach in reporting. The Director (Discipline) further noted that the Respondent referred to provisions of Companies Act, 1956 instead of the Companies Act, 2013. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
- b. The Respondent has not reported about the amount required to be transferred to the Investor Education and Protection Fund (IEPF) in his report for the financial year 2014-15 in CARO reporting: The Director (Discipline) in the prima-facie opinion observed that the Respondent has reported about the amount required to be transferred to "Investor education protection fund (IEPF)" in his audit report in Para 9(a). However, the Respondent was also required to report the same separately under CARO 2015 as per Paragraph 3(vii)(c) of the Companies (Auditor's Report) Order, 2015. It is noted by the Director (Discipline) that the Respondent being a statutory auditor of the Company

while issuing CARO 2015 report was not properly reported details as prescribed under the same and this reflects the casual approach of the Respondent while reporting on CARO 2015. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- c. Non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade Payables, as on 31.03.2014 : The Director (Discipline) in the prima-facie opinion observed that the Respondent in his submissions mentioned that reason of the negative balance is that the Company had paid advances to its suppliers for purchase of diamonds however, the same could not be delivered by the concerned suppliers. The Director (Discipline) observed that as per the requirement, the only amounts which are due on account of goods purchased or services are required to be mentioned under the head "Trade Payable" and since advance paid to supplier does not fall under the above classification, hence, the same should have been disclosed under the head advances paid to suppliers against goods. Hence, the presentation was not in line with the requirement of schedule III of the Companies Act 2013 and the Respondent had made a false statement in his report dated 28th August 2015 by stating that financial statements give true and fair view of the state of the Company's affairs of the Balance sheet at 31.03.2015. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- d. Non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of

Trade receivables as on 31.03.2015. The Director (Discipline) in the prima-facie opinion observed that the Respondent in his submissions mentioned that reason of the negative balance is that the Company had received advances from its customer to fulfil their demand of diamonds and however, the same could not be delivered by the concerned suppliers. The Director (Discipline) observed that as per the requirement, the only amounts which are due on account of goods sold or services rendered are required to be mentioned under the head "Trade Receivable" and since the advance received from customer does not fall under the above classification, hence the same should be disclosed under the head advances received from customers against goods. Hence, the presentation was not in line with the requirement of schedule III of the Companies Act 2013 and the Respondent had made a false statement in his report dated 28th August 2015 by stating that financial statements give true and fair view of the state of the Company's affairs of the Balance sheet at 31.03.2015. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- e. Mismatch of figures and details given in Cash Flow and Balance Sheet for the financial year ended 31.03.2014, submitted with the MCA and the Income Tax Department as there is difference in cash flow of Rs. 21494/- because in the Cash Flow statement sent in XBRL this figure is shown as the Income Tax Refund whereas in set filed with Income Tax the same is not shown in cash flow statement: The Director (Discipline) in the prima-facie opinion observed that as per AS-3, taxes paid are usually classified as cash flow from operating activities. It is observed that the Respondent failed to mention amounts of Rs. 21,494/- under the head 'Cash Flow from operating activity' in Cash flow statement filed with the Income Tax Department. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for

professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- f. No details related to Related party transactions has been mentioned in the set filed with Income Tax for the financial year ended 31.03.2014: The Director (Discipline) in the prima-facie opinion noted that management had given necessary disclosure regarding to related party transactions in XBRL report of the Company but failed to disclose related party transactions in balance sheet filled with the income tax authority which the Respondent being a statutory auditor of the Company failed to point out that the Company has not properly disclosed Related party Transaction as per AS-18. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item(s) (5) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.
- g. There is difference in figures of Trade payable and Total liabilities in the set for financial year ended 31.03.2014 submitted with MCA and the Income Tax: The Director (Discipline) in the prima-facie opinion noted that in the XBRL balance sheet total of liability and assets were mentioned as Rs 198,37,70,520 /- whereas in the balance sheet filed with the Income Tax Department total of liability and assets were mentioned in the brackets as (Rs 143,57,13,767/-). The Respondent in his submissions mentioned that the reason for the negative balance is that the Company had paid advances to its suppliers for the purchase of diamonds. However, the same could not be delivered by the concerned suppliers and that XBRL schema did not allow filing negative figures under the head Trade payables and therefore, advance received from customers is disclosed under the head "Other Current Liability" and advance paid to suppliers disclosed under the head "Other Current Assets". The Director (Discipline) observed that such a type of presentation is not in line with the requirement of Schedule III of the Company's Act, 2013 and it is noted that the Respondent should have mentioned the figures as

advance paid to supplier which should have been better and correct presentation. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie allegation on this charge for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- h. There is difference in figures of Trade receivables and Total assets in the set for financial year ended 31.03.2014 submitted with MCA and the Income Tax: The Director (Discipline) in the prima-facie opinion noted that in the XBRL balance sheet total of liability and assets were mentioned as Rs 198,37,70,520 /- whereas in the balance sheet filed with the Income Tax Department total of liability and assets were mentioned in the brackets as (Rs 143,57,13,767/-). The Respondent in his submissions mentioned that the reason for the negative balance is that the Company had received advances from its customer to fulfil their demand of diamonds. However, the same could not be delivered to the concerned buyers and that XBRL schema did not allow filing negative figures under the head Trade receivables and therefore, advance received from customers is disclosed under the head "Other Current Liability" and advance paid to suppliers disclosed under the head "Other Current Assets". The Director (Discipline) observed that such a type of presentation is not in line with the requirement of Schedule III of the Company's Act, 2013 and it is noted that the Respondent should have mentioned the figures as advance received from customers which should have been better and correct presentation. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- i. In the financials for the financial year 31.03.2015, as per Note 8 of Notes to Accounts, the heading is Short term Borrowings, whereas as per Balance Sheet, the heading is Short term Loans and Advances: The Director (Discipline) in the prima-facie opinion noted that, as per the

Schedule III of the Companies Act 2013, that correct heading is "Short term borrowings" and the same needs to be mentioned under the main head "Current Liabilities". However, on the face of the balance sheet, the main heading is given as "Short Term Loan and Advances", which is not as per Schedule III of the Companies Act 2013. However, the Respondent, being a statutory auditor failed to highlight violation of section 129 read with Schedule III Part 1 of Companies Act, 2013 and had not reported/ highlighted the same in his audit report which reflects upon the casual approach of the Respondent. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie guilty on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

7. Accordingly, the Director (Discipline) held the Respondent Prima Facie guilty of Professional Misconduct falling within the meaning of Items (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said clause to the Schedule to the Act, states as under:

Item (5) of Part I of Second Schedule

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

(5): fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;"

Item (7) of Part I of Second Schedule:

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

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

8. The Committee noted that the Respondent in his submissions dated 15th January 2023 after Prima Facie Opinion had, inter-alia, mentioned as under:
- a. In response to the first charge, he submitted that he regrets that he followed the provisions of the Companies Act, 1956 when provisions of Companies Act, 2013 were applicable. He has accepted his error and submits that, as a qualified group of professionals, he understands the seriousness of this oversight and apologizes for the inaccuracies. Further, he submits that the same error will not be repeated in the future.
 - b. In response to the second charge, he accepted his mistake and unconditionally undertook that the company had accepted deposits which were required to be disclosed as per CARO. He further mentioned that it was merely a consequence of a typing error and subsequent oversight while finalizing the audit report.
 - c. In response to the third and fourth charge he admitted that the practice that was being followed could mislead the users of financial statements since it was not showing true and fair view of the affairs of the Company and the same is rightly pointed out by the competent authority. He further submitted that in future the same amount will be disclosed as per the relevant provisions i.e. schedule III of the Companies Act, 2013 as prescribed by the Informant.
 - d. In response to the fifth charge, he admitted that he committed an error and the cash flow filed with the Income Tax Department was arithmetically incorrect. He, while regretting oversight, had submitted that such error does impact the opinion formed on the Financial Statements.
 - e. In response to the sixth charge, he mentioned that the error was unintentional, and he will make sure that in future all the related parties along with the nature of relationship and transactions are disclosed in the notes to accounts.
 - f. In response to the seventh and eighth charge, he mentioned that now he understands the gravity of the misstatement and accepts that such a disclosure can mislead the users of the financial statements.



- g. In response to the fourth charge he apologizes for his error and states that he understood the earnestness of compliance with Schedule III and undertakes not to repeat such kinds of mistake in the future.
- h. Further, he submitted that he, as a qualified and ethical professional, conducted the audit of a reporting entity with the utmost diligence, keeping in mind all the laws and our responsibilities as a statutory auditor. He made this error due to article assistants being involved in the preparation of audit reports.
- i. He is not denying the gravity of the charges levied on him but requesting the Committee to consider that while auditing the financial statements he has gone through all the material facts and information provided by the management of the entity and, wherever necessary, exercised professional skepticism to collect all possible evidence to base his opinion.
- j. That he does not have any intention to conceal any kind of material facts or defy readers of financial statements.

BRIEF FACTS OF THE PROCEEDINGS:-

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

S.No.	Date	Status of Hearing
1.	31.05.2023	Part Heard & Adjourned
2.	25.08.2023	Adjourned on the request of the Respondent
3.	13.09.2023	Heard & Concluded

10. On the day of the first hearing, held on 31st May, 2023, the Committee noted that the Respondent was present through video conferencing mode. The Respondent was administered on Oath. The Committee enquired from the Respondent as to whether he was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges leveled against him. Thereafter, looking into the fact that this was the first hearing, the Committee decided to adjourn the hearing. With this, the hearing in the matter was partly heard and adjourned.

11. On the day of the second hearing held on 25th August 2023, the Committee noted that the Respondent, vide his mail dated 19th August 2023 had sought adjournment on grounds of personal reasons and to engage an authorized representative to defend his case. On consideration of the same, the Committee, on account of natural justice, acceded to the request of the Respondent and accordingly adjourned the case to a future date.
12. On the day of the final hearing held on 13th September 2023, the Committee noted that the Respondent was present through Video Conferencing Mode. The Committee noted that the Respondent made his written submissions dated 12th September 2023 i.e. day before the final hearing wherein he had inter-alia mentioned as under:
- a. As regards the first charge, the same is a technical lapse. The same was human error and the concerned year of audit was the first transitional year.
 - b. As regards the second charge, the same was technical lapse and did not adversely affect anybody's interest.
 - c. As regards the third and fourth charges, the same are technical error of classification and presentation.
 - d. As regards the fifth charge, the same is attributable to the technical factor of XBRL format.
 - e. As regards the sixth, seventh and eighth charge, the same is technical lapse. The same is error and not gross negligence.
 - f. As regards the ninth charge, the same is typing lapse and did not adversely affect anybody's interest.
 - g. That he will never repeat the same in future.

12.1 Thereafter, the Committee, looking into the Respondent's submissions and his acceptance of guilt against the charges leveled, recorded his plea and

proceeding in accordance with the provisions of Rule 14(b) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of cases) Rules, 2007.

- 12.2 After considering all papers available on record and after detailed deliberations and recording the submissions, the Committee decided to conclude the hearing in the instant case.

FINDINGS OF THE COMMITTEE

FIRST CHARGE BY DIRECTOR (DISCIPLINE)

13. The Committee noted that the first charge relates to improper/ misleading reporting regarding maintenance of cost records in his report for the financial year 2014-15. The Committee noted that the relevant extracts of Paragraph 3(vi) of Companies (Auditor's Report) Order, 2015 states as under:

"Where maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 whether such accounts and records have been made and maintained."

- 13.1 The Committee noted that the Respondent in his audit report for the financial year 2014-15 in para (8), had mentioned as under:

"..we have broadly reviewed the books of accounts maintained by the Company pursuant to the order made by the Central government of India for maintenance of cost records under section 209(1)(d) of the Companies Act, 1956 and are of opinion that prima facie the prescribed accounts and records have been maintained".

- 13.2 From the above vis-à-vis submissions of the Respondent, the Committee noted that the Company was engaged in trading of diamonds, however as per the provisions of the Companies Act/ Rules, maintenance of cost records is

applicability to the concerns engaged in manufacturing activity. Hence, the Respondent was required to mention in his CARO report that maintenance of cost records is not applicable on the Company.

13.3 The Committee noted that the Respondent had referred to the provisions of Companies Act, 1956. However, the matter pertains to the financial year 2014-15 for which the provisions of the Companies Act 2013 were applicable.

13.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that the Respondent was casual in his approach while issuing his audit report as Statutory auditor of the Company for FY 2014-15. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SECOND CHARGE BY DIRECTOR (DISCIPLINE)

14. The Committee noted that second charge is that Respondent in his CARO reporting has not reported about the amount required to be transferred to the Investor Education and Protection Fund (IEPF) in his report for financial year 2014-15. The Committee noted that the relevant extracts of Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015 states as under:

"Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made there under has been transferred to such fund within time."

 14.1 The Committee noted that instead of mentioning about the same in CARO reporting, the Respondent his audit report for the financial year 2014-15 in para 9(a), had mentioned as under:

"The Company has been regular in depositing undisputed statutory dues including provident fund, Investor Education and Protection fund, Employees State Insurance, Income Tax, sales tax, wealth tax, service tax, custom duty, excise duty, cess and other statutory dues with the appropriate authorities

during the year. According to the information and expectations given to us, no undisputed amount payable in respect of the aforesaid dues were outstanding as at March 31, 2015 for period of more than six months from the date of becoming payable”.

- 14.2 The Committee noted that Respondent was mandatorily required to report the same separately under CARO 2015 as per Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015.
- 14.3 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that although such type of error neither affects the true and fair view nor affects the decision making of any user of the financial statement of the Company, however the same reflects upon the casual approach of the Respondent while reporting on CARO 2015 which cannot be ignored. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

THIRD CHARGE BY DIRECTOR (DISCIPLINE)

15. The Committee noted that the third charge is related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade Payables as on 31st March 2014 (appearing in previous years' figures of the Financial Statements of 31st March 2015). The Committee on perusal of records noted that in the Balance Sheet for the year ended 31st March 2015 (filed with Income Tax Department), trade payables were shown as Rs 181,80,45,710/- and in the previous year (i.e., on 31st March 2014) trade payables were shown in bracket as Rs (145, 46,47,372/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be treated as "Other Current Assets" rather than Trade payable/creditors.

- 15.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

- 15.2 The Committee noted that general instructions for preparation of Balance Sheet has been given in Schedule III of the Companies Act, 2013 and point 5 of such instructions specifically mentioned as under:

"A payable shall be classified as a —trade payable if it is in respect of the amount due on account of goods purchased or services received in the normal course of business."

- 15.3 Accordingly, the amounts which are due on account of goods purchased or services received are required to be mentioned under the head "Trade Payable" and since advance paid to suppliers does not fall under the above classification, hence, the same should have been disclosed under the head advances paid to suppliers against goods.

- 15.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act. The Committee further noted that the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31st March 2015 (with respect to disclosure of Trade Payable under Sundry Creditors). Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FOURTH CHARGE BY DIRECTOR (DISCIPLINE)

16. The Committee noted that fourth charges related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade receivables as on 31st March 2014 (appearing in

previous years figures of the financial statements of 31st March 2015. The Committee on perusal of records noted that in the Balance Sheet for the year ended 31st March 2015 (filed with Income Tax Department), trade receivables were shown as Rs 161,84,50,543/- and in the previous year (i.e., on 31st March 2014) trade receivables were shown in bracket as Rs (196,48,36,915/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be treated as "Other Current Liability" rather than trade receivables/debtors.

16.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

16.2 The Committee noted that general instructions for preparation of balance sheet has been given in Schedule III of the Companies Act, 2013 and point 5 of such instructions specifically mentioned as under:

"A receivable shall be classified as a —trade receivable if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business."

16.3 Accordingly, the amounts which are due on account of goods sold or services rendered are required to be mentioned under the head "Trade Receivable" since advance received from customer does not fall under the above classification, the same should be disclosed under the head advances received from customers against goods.

16.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that such type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act and the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's

affairs as at 31st March 2015 (with respect to disclosure of Trade Payables under sundry debtors). Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FIFTH CHARGE BY DIRECTOR (DISCIPLINE)

17. The Committee noted that the fifth charge is regarding mismatch of figures and details given in the Cash Flow and Balance Sheet for the financial year ended 31st March 2014 submitted with the MCA and the Income Tax. The Committee noted that as per the charge in XBRL reporting under the Cash Flow Statement, net cash flow from operating activities was disclosed as Rs 12,28,62,949/- whereas in the Cash flow statement filed with the Income Tax Department, it was Rs 12,28,84,443/-. Therefore, there is a difference of amount of Rs 21,494/- which was due to fact that in XBRL reporting, a transaction 'Income Tax Refund' was reflecting whereas in the Cash Flow Statement filed with the Income Tax Department this was not shown and this difference was shown as Provision of Tax under the head of Short-Term Provisions.

17.1 The Committee in this regard noted that AS-3 "Cash Flow Statement" with regard to the taxes on income are mentioned as under-

"Cash flows arising from taxes on income should be separately disclosed and should be classified as cash flows from operating activities unless they can be specifically identified with financing and investing activities".

17.2 The Committee in view of the above extracts of the AS-3, vis-à-vis the acceptance of the mistake by the Respondent, noted that taxes paid are usually classified as cash flow from operating activities and it is apparent that the Respondent failed to mention amounts of Rs. 21,494/- under the head cash flow from operating activity in Cash flow statement filed with the Income Tax Authority. Accordingly, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SIXTH CHARGE BY DIRECTOR (DISCIPLINE)

18. The Committee noted that the sixth charge is that no details of Related party transactions have been mentioned in the set filed with Income Tax for the financial year ended 31st March 2014. The Committee noted that the Respondent in his Written Statement stated that in point no. 11 of notes to accounts mentioned that "Balances of advances with relatives of directors and companies under the same management within the meaning of section 370(1)(B) of the Companies Act, 1956 are NIL".
- 18.1 The Committee in this regard noted that management had given the necessary disclosure regarding related party transactions in XBRL report of the Company but failed to disclose related party transactions in balance sheet filled with the income tax authority.
- 18.2 The Committee, in view of acceptance of the mistake by the Respondent vis-à-vis the fact that the Respondent being a statutory auditor of the Company failed to point out that the Company, has not properly disclosed Related party Transaction as per AS-18, noted that the Respondent was not only grossly negligent in duties but also failed to report known material fact in the financial statement. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item(s) (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SEVENTH CHARGE BY DIRECTOR (DISCIPLINE)

19. The Committee noted that the seventh charge is that there is difference in figures of Trade payable and Total liabilities in the set for the financial year ended 31st March 2014 submitted with MCA and the Income Tax.
- 19.1 The Committee noted that in the XBRL balance sheet the total of liability and assets were mentioned as Rs 198,37,70,520 /- whereas in the balance sheet filed with the Income Tax Department the total of liability and assets were

mentioned in the brackets as (Rs 143,57,13,767/-). The Committee further noted that Respondent in his submissions in this regard mentioned that reason of the negative balance is that the Company had paid advances to its suppliers for the purchase of diamonds. However, the same could not be delivered by the concerned suppliers. He further submitted that XBRL schema did not allow filing negative figures under the head Trade payables and therefore, advance received from customers is disclosed under the head "Other Current liability" and advance paid to suppliers disclosed under the head "Other Current Assets".

- 19.2 The Committee noted that findings relating to similar charge had been given para 15 to 15.4 above wherein it is concluded by the Committee that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act 2013. The Committee also viewed that the Respondent should have mentioned the figures as advance paid to supplier which should have been better and correct presentation. Looking into the findings given above vis-à-vis admission of the Respondent, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.

EIGHTH CHARGE BY DIRECTOR (DISCIPLINE)

20. The Committee noted that the eighth charge is that there is difference in figures of Trade receivables and Total assets in the set for the financial year ended 31st March 2014 submitted with MCA and the Income Tax.
- 20.1 The Committee noted that in the XBRL balance sheet the total of liability and assets were mentioned as Rs 198,37,70,520 /- whereas in the balance sheet filed with the Income Tax Department the total of liability and assets were mentioned in the brackets as (Rs 143,57,13,767/-). The Committee further noted that Respondent in his submissions in this regard mentioned that the reason of the negative balance is that the Company had received advances from its customer to fulfil their demand for diamonds. However, the same could not be delivered to the customers. He further submitted that XBRL schema did not

also showing negative figures under the head "Trade Payables" and the advance received from customers is disclosed under the head "Other Current Liability" and advance paid to suppliers disclosed under the head "Other Current Assets".

- 20.2 The Committee noted that findings relating to similar charge had been given para 16 to 16.4 above wherein it is concluded by the Committee that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act 2013. The Committee also viewed that the Respondent should have mentioned the figures as advance received from customers which should have been better and correct presentation. Looking into the findings given above vis-à-vis admission of the Respondent, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.
21. The Committee noted that the ninth and last charge is that in the financials for the financial year 31st March 2015 as per Note 8 of Notes to Accounts, the heading is Short term Borrowings, whereas as per Balance Sheet, the heading is Short term Loans and Advances.
- 21.1 The Committee noted that the correct heading as per Schedule III of the Companies Act 2013, is "short-term borrowings" and the same needs to be mentioned under the main head "Current Liabilities". However, on the face of Balance Sheet, main heading is given as "Short Term Loan and Advances" which is not a valid disclosure as per Schedule III of the Companies Act 2013.
- 21.2 The Committee noted that the Respondent, being statutory auditor, failed to highlight the violation of section 129 read with Schedule III Part I of Companies Act, 2013 in his audit report which reflects upon the casual approach of the Respondent. The said fact was accepted by the Respondent in his submissions also. Accordingly, the Respondent is held *prima facie* GUILTY on this charge for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION

22. In view of the above findings stated in the above para's vis-à-vis material on record, the Committee, in its considered opinion, holds the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5) & (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

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

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

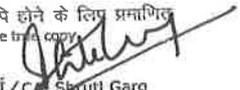
sd/-
(SHRI ARUN KUMAR, I.A.S, RETD.)
GOVERNMENT NOMINEE

sd/-
(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 14TH DECEMBER, 2023

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy


सीए श्रुति गर्ग / CA Sruti Garg
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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