

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-301/2017-DD/318/2017/DC/1311/2020]

In the matter of:

**Sh. Pradeep Ranjan Rath,
M/s CIDCO Vocational Training Institute
Company Secretary, CIDCO Ltd.
CIDCO Bhavan, 6th Floor,
CBD Belapur
Navi Mumbai - 400614**

.... Complainant

Versus

**CA. Chimanlal Champalal Dangi (M. No. 036074)
M/s C. C. Dangi & Associates
1st Floor, Waefield House, Spratt Road
Ballard Estate,
Mumbai- 400038**

.....Respondent

MEMBERS PRESENT:

**CA. Ranjeet Kumar Agarwal, Presiding Officer (In Person)
Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (In Person)
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (In Person)
CA. Sanjay Kumar Agarwal, Member (In Person)
CA. Sridhar Muppala, Member (Present through Video Conferencing Mode)**

DATE OF FINAL HEARING: 24.07.2023 (through physical / video conferencing mode)

PARTIES PRESENT ON 24.07.2023

Complainant: Not present.

Respondent : Not present.

Authorized Representative of the Respondent: CA. Ashish Dangi (Through BKC Office, Mumbai)

BASE

BACKGROUND OF THE CASE:

1. The brief background of the case is as under:
 - a. The Complainant was the Company Secretary of 'City and Industrial Development Corporation of Maharashtra Limited' (CIDCO Ltd.), a Government of Maharashtra Undertaking.
 - b. CIDCO Vocational Training Institute (CIDCO-Trust) is a trust facilitated / formed by CIDCO Ltd, i.e., the latter happens to be the 'Settler' of the CIDCO Trust (hereinafter to be referred to as the "Trust").
 - c. The Respondent was the Statutory Auditor of CIDCO Vocational Training Institute (CIDCO-Trust) for the Financial Year(s) 2009-10, 2010-11 & 2011-12.

CHARGES IN BRIEF: -

2. The Complainant in the Form – I dated 27th September 2017 had made the following allegations against the Respondent:
 - a. Despite several communications made by the Complainant on behalf of the Trust, the Respondent failed to complete the Audit of the Trust for the Financial Year 2011-12.
 - b. The Respondent solicited an exorbitant fee for preparation of accounts and gave the representation that Mr. Kishore Jadhav, was preparing the accounts of the Trust. The Complainant alleged that the latter was working on behalf of the Respondent firm.
3. The Respondent in his reply dated 23rd January 2018, at the stage of PFO had, inter-alia, mentioned as under:
 - i. The Complainant himself did not turn up with a complete set of financials of the Trust to facilitate the Respondent to complete the audit work.



- ii. That, despite several communications with the Complainant and his office staff, he was not provided with the required information; replies to queries raised / audit observations and necessary vouchers etc.
 - iii. That this obstructed the Respondent to complete the Audit in a time bound manner due to non-cooperation on the part of the Complainant himself.
 - iv. That neither had he represented Mr. Kishore Jadhav as a Chartered Accountant nor did he solicited any fees for preparation of accounts. He denied the allegation relating to the preparation of accounts by his staff.
4. The Director (Discipline) had, in his Prima Facie Opinion dated 10th October 2019, opined that the Respondent with respect to **first allegation** could not establish with any documentary evidence that it was the failure on the part of the Trust in providing the books of accounts to the Respondent. Thus, it was assumed that the complete set of accounts was provided by the Complainant as claimed by him. Further, as per the requirements of Section 34(1) of the Maharashtra Public Trust Act, 1950, the Respondent was supposed to prepare the financials. Accordingly, it was noted by the Director (Discipline) that the Respondent himself was required to prepare the financials of the Trust rather than expecting the same from the Trust. Hence, the Director (Discipline) opined that Respondent had failed to exercise due diligence in conduct of his professional duties.
5. With respect to **second allegation** related to charging of exorbitant fees for preparation of accounts, the Director (Discipline) noted that though the Respondent had denied involvement of Mr. Kishore Jadhav in the preparation of accounts but the email dated 22nd August 2016 clearly suggests the active involvement of the Respondent's participation in such activities. The apparent simultaneous roles of the Respondent as both an auditor and accountant, as indicated by the involvement of his staff, contradict established principles, jeopardizing integrity and independence.

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6. Accordingly, the Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, held the Respondent Prima-facie **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949. The said items in the Schedule to the Act states as under:

Item (7) of Part I of the 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.”

Item (1) of Part II of the Second Schedule:

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

(1) Contravenes any of the provisions of the Act / Regulations & Guidelines issued by the Council.

Submissions of Respondent on Prima Facie Opinion:

7. The Committee noted that the Respondent in his submissions dated 28th December 2020, in response to the Prima Facie Opinion, has inter-alia stated as under:
- a) There was no delay / negligence on the part of the Respondent in the instant matter.

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- b) It was in fact the Trust, which was unable to maintain proper invoices, receipts, bills etc. and had failed to provide necessary details and answers to the audit queries raised.
- c) During the tenure of the audit, it has always been problematic to procure data timely from the trust. Data was given in a piecemeal mode, and it is evident from internal note issued by the Trust.
- d) In the Internal note dated 8th February 2012 acknowledged by the Complainant, it was clearly stated that there were no permanent accounting staff since September 2010.
- e) In an internal note dated 4th April 2012 it was mentioned that the Respondent Firm was unable to complete the audit due to missing receipts and not maintaining the serial number of receipts.
- f) That he had always communicated with the trustees. In fact his follow-up has led to setting up a meeting to discuss completion of the audit of the financial year 2011-12.
- g) Based on the audit observations of the Respondent for the financial year 2011-12, the Trust initiated an internal audit.
- h) It revealed that there were many shortcomings and defects not only in the accounts but also in the overall working of the Trust and the Complainant was held responsible for this mismanagement.
- i) That the Complainant himself approached Mr. Kishore Jadhav for data entry assignment of the Trust and the Respondent had no part in the said assignment.
- j) It was an agreed fact that Mr. Jadhav was working in association with the office of the Respondent. However, he was independently handling accounts-writing assignments for his own clients.
- k) Mr. Jadhav had raised his own invoice independently and separately, not a single rupee of his fees was shared with the Respondent.
- l) Further, there was a serious dispute and litigation going on between the Complainant Mr. Pardeep Rath and Mr. Ashok Surve, the project coordinator and the reporting trustees.

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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.	18.10.2021	Part- Heard and Adjourned.
2.	07.11.2022	Part- Heard and Adjourned.
3.	06.04.2023	Part- Heard and Adjourned.
4.	23.06.2023	Part- Heard and Adjourned.
5.	24.07.2023	Concluded and Judgment Reserved.
6.	25.08.2023	Decision taken on case.

9. On the day of the first hearing, held on 18th October 2021, the Committee noted that the Complainant was present through Video Conferencing Mode. The Respondent along with his counsel Shri. S G Gokhale, Advocate was present through Video Conferencing mode from Mumbai Office of ICAI. Both the parties were administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges. The Respondent on the same replied in affirmative and also pleaded Not Guilty to the charges levelled against him. Thereafter, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard & adjourned.
10. On the day of the second hearing held on 7th November 2022, the Committee noted that the Complainant was not present, and no intimation was received from the Complainant in reply to the notice duly served. The Committee also noted that the Respondent sought an adjournment on the ground of the death of the mother of his Counsel, Mr. S.G. Gokhale, Advocate. Thereafter, the Committee, looking into the same, acceded to the request made by the Respondent and accordingly adjourned the hearing.

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11. On the day of the third hearing held on 6th April 2023, the Committee, in the instant matter, noted that the Complainant was not present. The Committee further noted that the Respondent along with Counsel Shri S.G. Gokhale, Advocate and his representatives CA. Ashish Dangi and CA. C N Vaze were present from the BKC office of the ICAI Mumbai.
- 11.1 Thereafter, the Committee enquired from the Respondent that since the composition of the Committee had changed since the previous hearing, as to whether he wished to have a de-novo hearing. On the same, the Respondent refused and did not opt for a de-novo hearing. Accordingly, the Committee acceded to the request of the Respondent and continued the matter from the stage at which it was last heard.
- 11.2 The Committee asked the Respondent to make his submissions, his Counsel inter-alia, submitted his defense in detail on the charges alleged against the Respondent, wherein he stated that:
- a. The crucial point was regarding the validity of the complaint itself, since, a trust in general was not considered a legal entity or a separate juristic person, making all trustees parties in any litigation. Therefore it was contended that the complaint lacked proper authorization as it was not signed by all the trustees of the trust.
 - b. Moreover, the resolution accompanied by the Complaint basically focuses on the dissolution of the Trust and from the said resolution no specific authority to the Complainant to file this complaint could be inferred.
 - c. That even if it was presumed that the Respondent was to prepare the financials of the entity, even then also, the accounts were to be provided to him.
 - d. Mr. Kishore Jadhav was an employee of the Respondent Firm sometime in the past.
 - e. Mr. Jadhav had prepared the accounts of the entity, and he was not the employee of the Respondent. Both Mr. Kishore Jadhav and the Complainant independently communicated with each other.

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f. The fees related to book keeping was charged directly by Mr. Kishore Jadhav from the Complainant and the Respondent Firm did not charge any fees for accounts rendered.

11.3 Thereafter, the Committee directed the Respondent to prepare a synopsis of the matter and submit it within the next 10 days. With this, the hearing in the matter was partly heard & adjourned.

11.4 The Committee noted that the Respondent, on its directions, had submitted the synopsis of the matter dated 14th April 2023, wherein inter-alia he submitted as under:

- a) Pursuant to Section 34(1) of the Maharashtra Public Trust Act, 1950, it was the duty of the auditors to prepare the Balance sheet and Income and Expenditure Account "if Charity Commissioner requires him to do so". However, in the instant matter there was no such requirement. Thus, there was no failure in complying with Sec 34(1).
- b) Moreover, in respect of the audit for the previous two years also, the financial statements of the Trust were prepared by the Trust and not by the auditors of the Trust.
- c) He had pointed out the irregularities in the internal audit report of Trust for FY 2011-12, where there were charges of misappropriation, siphoning of funds and misuse of position by the Complainant.
- d) The Complainant had himself admitted that he had struggled to sort out the entries in the audit for FY 2011-12.
- e) The Respondent had asked for teleconference which indicates his proactive efforts to follow up on the matter.
- f) There was a direct communication between the Complainant with Mr. Jadhav. There was a mistake in the reading to consider that Mr. Jadhav was Respondent's staff.
- g) Mr. Jadhav does free-lance accounts work for many, including for the Respondent.
- h) In the instant matter Mr. Jadhav raised his own bills for accounts writing and the same was paid by the Complainant himself.

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- i) The Respondent has not rendered any accounting service and has maintained his complete independence in performing his duties and interest without in any way compromising his impartiality as an auditor.
12. On the day of the fourth hearing held on 23rd June 2023, the Committee noted that the Respondent along with his son CA. Ashish Dangi and his counsel Mr. C. N Vaze, Advocate, was present from the BKC office of ICAI at Mumbai. The Committee noted that neither the Complainant was present, nor any intimation was received from his end despite notice/email duly served upon him. The Committee posed certain questions to the Respondent's Counsel to understand the issue involved.
- 12.1 In the absence of the Complainant, the Counsel of the Respondent presented his line of defense and gave his oral submissions, wherein he, inter-alia, had stated are as under:
- a. That the Trust was headless. There was no responsible person and even the trustees were not identifiable. There was no coordinating person from the trust with whom the Respondent could interact.
 - b. Mr. Kishore Jadhav was rendering accounting services to him as well as the Trust.
 - c. The Respondent struggled to get the data from the Trust to complete the audit, even certain documents specifically asked by the Respondent were not provided to him. Even Mr. Kishore Jadhav had asked for pending information for completing his accounting work.
 - d. When the Committee questioned about the reason for not resigning in case of non-availability of complete records, the auditor asserted, emphasizing their dedication to fulfilling their auditing duties despite facing challenges with access to the required financial records.
 - e. That the auditee, i.e., the Trust was keen to get their accounts audited and Mr. Kishore Jadhav was delaying it, by not completing the accounts consequently impeding the delay in auditing the financial statements of the Trust.



- f. The Respondent never provided any accounting services to the client.
- g. The Respondent can provide / submit an affidavit to the effect that Mr. Kishore Jadhav was not his employee / staff member.
- h. The Respondent also provided a copy of an affidavit about his association with Mr. Kishore Jadhav, whereby the latter submitted that he is not associated with the Respondent.
- i. As regards the instant allegation of solicitation of an exorbitant fee for preparation of accounts by the Respondent, the Respondent submitted that he had never provided any accounting services to any client and also from the affidavit, it is apparently clear that Mr. Jadhav was not his employee / staff member.

12.2 On consideration of the submissions of the Counsel of the Respondent, the Committee gave directions to the Respondent to submit the following documents/ information:

- a. Documents in support that Mr. Kishore Jadhav was not the Respondent's Staff.
- b. The affidavit from Mr. Kishore Jadhav stating that he was not related to the Respondent.

12.3 With the above facts and looking into the fact that the Complainant was not present, the Committee decided to adjourn the hearing to a future date to provide one more opportunity for the Complainant.

13. On the day of the final hearing, held on 24th July 2023, the Committee noted that neither the Complainant was present, nor any intimation was received from his end despite notice/email duly served upon him. From the Respondent's side his son CA. Ashish Dangi in the capacity of being an authorized representative of the Respondent was present through BKC Office, Mumbai.

13.1 Thereafter, the Respondent's authorized representative submitted the affidavit before the Committee regarding the Respondent's association with Mr.



Kishore Jadhav. With this, the Committee decided to conclude the hearing and the Judgment was reserved.

14. Thereafter, this matter was placed in meeting held on 25th August 2023 for consideration of the facts and arriving at a decision by the Committee. The Committee noted that the instant case was concluded on 24th July 2023 and the decision of the bench was kept reserved on account of going through all the paper and documents submitted by both the parties in detail. Keeping in view the facts and circumstances of the case, material on record and looking into the Respondent's submissions against the charges leveled, the Committee passed its judgment.

FINDINGS OF THE COMMITTEE: -

15. The Committee as regards **first charge** relating to the non-completion of the audit of the Trust for the Financial Year 2011-12, noted that the Respondent had placed on record various documents to justify his stand that proper accounts were not provided to him for completion of his audit. The Committee in this regard observed various emails/letter of record which states as under:

Date	Sender	Receiver	Contents
Letter dated 07.03.2012	Mr. Ashok Surve, Project Co-Ordinator, CIDCO	Respondent	Income and expenses voucher file was submitted by CIDCO to the Respondent
Internal Note dated 04.04.2012	Internal note		It was mentioned that the Respondent Firm was unable to complete the audit due to missing receipts and not maintaining serial number of receipts.
Letter dated 05.07.2013	Project Co-Ordinator, CIDCO	Respondent	Debit and credit vouchers for the period Sept 2011 to March 2012 were submitted by CIDCO to the Respondent

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Email 08.07.2016	Respondent	CIDCO	Ledgers of all expenditures and receipts during 15.02.2012 to 31.03.2012 were sought.
Letter dated 11.07.2016	Complainant	Respondent	Detail of FD relating to FY 2011-12 was provided to the Respondent.
Letter dated 13.07.2016	Complainant	Respondent	Copy of Cheque relating to cash withdrawal of Rs. 20,000/- on 23.02.2012 was provided to the Respondent
Office Note dated 18.07.2016	Complainant		The Staff asked to provide details of PAN of trustee to the Respondent.
Letter dated 18.07.2016	Complainant	Respondent	Apart from submitting more details, the Complainant requested the Respondent to inform him regarding further requisite information/ details/ documents to complete the audit.
Letter dated 21.07.2016	Complainant	Respondent	Complainant submitted expenditures statement relating to FY 2011-12
Email dated 22.08.2016	Mr. Kishore Jadhav	Respondent	Sender provided draft copy of financials to the Respondent with copy to the Complainant.
Email	Complainant	Mr. Kishore Jadhav	In respect of above email the Complainant called various details from Mr. Kishore Jadhav which means that the

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			Complainant was not satisfied with the financials.
Letter dated 20.09.2016	Complainant	Respondent	Complainant mentioned that explanation to "CIDCO findings" sheet will be provided to the auditors during their visit to Trust Office.

15.1 The Committee hence noted that the major reason of delay in conducting the audit was due to lack of providing details by the Complainant's entity i.e., the Trust. Accordingly, the Committee concluded that the charge against the Respondent remained unsubstantiated.

15.2 Accordingly, the Respondent is **Not Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

16. The Committee, with respect to the **second charge** related to preparation of accounts by its staff and hence the simultaneous roles of the Respondent acting as both an auditor and accountant, noted that Mr. Kishore had given an Affidavit in this regard on 10th July 2023. On perusal of the same the Committee further noted that the real name of Mr. Kishore Jadhav is Mr. Kondhibhai Ganpat Jadhav. The Committee noted that the bills enclosed by the Complainant relating to accounting charges bear the name K G Jadhav. Also, Mr. Kishore Jahav had submitted copies of his emails exchanged with Complainant. Accordingly, the Committee accepted the identity of Mr. Kishore Jadhav alias K G Jadhav alias Mr. Kondhibhai Ganpat Jadhav. In the said Affidavit, Mr. Kishore Jadhav had submitted as under:

- a. That he has been doing accounts writing work on freelance basis since 2007.
- b. That he was approached by the Complainant for account writing work of the Trust and he did account writing work for financial years 2009-10, and 2010-11 in the year 2012-13.



- c. That in the year 2013-14 there was no communication from the Complainant regarding account writing work for 2012-13. He followed up with the Complainant, but there was no response from the Complainant.
- d. That in early 2016 the Complainant approached him and provided details for completing the accounts.
- e. In August 2016 based on the details received from the Complainant, he processed that data. However, data was incomplete for finalization of accounts.
- f. He raised bills for Rs. 14000/- and Rs. 24000/- for financial years 2009-10 and 2010-11 respectively.
- g. That he received payment for the same.

- 16.1 The Committee also noted that an affidavit dated 8th August 2023 was submitted by the Respondent, wherein he stated that Mr. K G Jadhav had resigned from their firm in the year 2007 and, thereafter, he had been rendering freelance accounting services since then.
- 16.2 In the said affidavit, the Respondent had also confirmed that he had not rendered accounting services to the Trust and had neither raised any invoice with respect to the accounting charges nor had received any fees for the said accounting charges. The Committee noted that the Respondent had declared that Mr. Jadhav was not related to him.
- 16.3 Keeping in view the facts of the case and on perusal of the affidavit provided by the Respondent, the Committee got satisfied with the submissions of the Respondent and, accordingly, was of view that Mr. Kishore Jadhav worked independently as an accountant and was not related to the Respondent with respect to Financial Year 2012-13.
- 16.4 The Committee also noted that except for the first hearing in 2021 was not present the Complainant was not present in all five subsequent hearings despite the notice being duly served which means that he is not willing to pursue the present matter.
- 16.5 The Committee, accordingly, in the absence of contra evidence from the Complainant, decided to pass benefit in favour of the Respondent and hold

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him **Not Guilty** of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION: -

17. In view of the findings stated in the above paras, vis-a-vis material on record, the Committee, in its considered opinion, holds the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (7) Part I and Item (1) Part II of the Second Schedule to the Chartered Accountants Act, 1949.

ORDER: -

18. 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. SANJAY KUMAR AGARWAL)
MEMBER

SD/-
(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 07TH FEBRUARY, 2024

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

Bishwa Nath Tiwari / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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