



# भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PPR-105/2017-DD/343/INF/2017/DC/1319/2020

[DISCIPLINARY COMMITTEE [BENCH-II (2024-2025)]]

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

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

[PPR-105/2017-DD/343/INF/2017/DC/1319/2020]

**In Re:**

**CA. Paresh Sumant Mokashi (M. No. 144118)**  
Manorama Society, Sant Namdev Peth  
Cross Road no. 2, Dist. Thane, Dombivali (East)  
Dombivali-421201.

.....Respondent

**Members Present:-**

**CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)**  
**Mrs. Rani S. Nair, IRS (Retd.), Government Nominee (through VC)**  
**Shri Arun Kumar, IAS (Retd.), Government Nominee (through VC)**  
**CA. Sanjay Kumar Agarwal, Member (in person)**  
**CA. Cotha S Srinivas, Member (in person)**

**Date of Hearing : 28<sup>th</sup> March, 2024**

**Date of Order : 17<sup>th</sup> May, 2024**

1. That vide Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Paresh Sumant Mokashi (M. No. 144118)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Professional Misconduct falling within the meaning of Item (5), (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. That pursuant to the said Findings, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting opportunity of being heard in person / through video conferencing and to make representation before the Committee on 28<sup>th</sup> March 2024.

3. The Committee noted that on the date of the hearing held on 28<sup>th</sup> March 2024, neither the Respondent was present before it nor was there any intimation as regard his non-appearance.



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3.1 The Committee also noted that the case was earlier fixed on 19th March 2024 wherein the copy of the Findings sent at the address available in the member records of ICAI had been received back undelivered. The Committee also noted that the soft copy of the Findings of the Disciplinary Committee and the Notice for the hearing had also been sent to the email address available in the member records of ICAI. As per email delivery intimation for the communication of the date of hearing, the delivery of the said email had been complete.

3.2 The Committee also noted from the member records of ICAI as under:

(a) 'KYM' Form of the Respondent had been submitted and the same was pending with the comment '*asking for correction*'.

(b) Around 86 UDINs had been generated by the Respondent during the year 2023.

3.3 The Committee was of the view that all possible efforts have been made to ensure the delivery of the communication for hearing upon the Respondent but he chose not to represent before the Committee. Keeping in view the provisions of Rule 19(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee presumed that he has nothing more to represent before it and thus, decided to consider his case for award of punishment on the basis of material available on record.

4. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional Misconduct.

5. Keeping in view the facts as well as the circumstances of the case and material on record, the Committee noted that the Respondent had signed two sets of financial statements of M/s Laxmi Vilas Co-op Housing Society (hereinafter referred to as 'the Society') for the financial year 2013-14. The first set was not accepted by the General Body of the Society as various errors were found in the first set. Subsequently, the Respondent re-audited the revised financial statements prepared by the Society and issued a 'Rectified Audit Report'. There were differences in both sets. The informant had mentioned six types of errors in the financial statements. As regards the first five errors, the Respondent had submitted that the same was rectified in the second set of financial statements. The Committee noted that the acceptance of rectification itself proves that the Respondent failed to exercise the requisite diligence in the conduct of the professional duties in certification of the first set.

5.1 As regards the interest amount on Fixed Deposits, the Committee noted that the Respondent accepted that while preparing the financial statements originally, full data of accrued interest on FD was not available from the Bank and that calculation was done on the basis of Management's own calculation. The Committee in this regard noted that if the details were not available, then the fact was required to be reported by the Respondent in his Audit Report. However, the Respondent failed to give any qualification in this regard in his audit report. A true and correct picture was not reported by the Society as when such errors were not reported, in that case,



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there was a surplus and after rectification of such errors, the surplus resulted in loss, which the Respondent as an auditor, failed to report.

5.2 The Respondent as an auditor also failed to mention the date on which he had signed the audit report and thus, the Respondent was not only grossly negligent in conduct of his professional duties but also has failed to disclose material fact known to him and also failed to report material misstatements known to him.

5.3 Hence, professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 7<sup>th</sup> February 2024 which is to be read in consonance with the instant Order being passed in the case.

6. Accordingly, the Committee was of the view that ends of justice will be met if punishment is given to him in commensurate with his professional misconduct.

7. Thus, the Committee ordered that CA. Paresh Sumant Mokashi (M. No. 144118), Dombivali be Reprimanded and also a Fine of Rs. 25,000/- (Rupees Twenty-Five thousand only) be imposed upon him payable within a period of 60 days from the date of receipt of the Order.

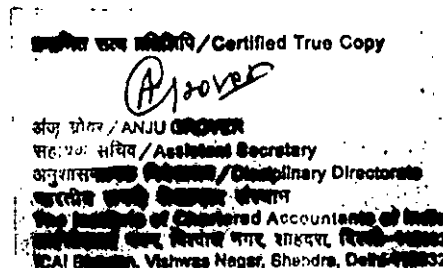
sd/-  
(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

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

sd/-  
(SHRI ARUN KUMAR, IAS RETD.)  
GOVERNMENT NOMINEE

sd/-  
(CA. SANJAY KUMAR AGARWAL)  
MEMBER

sd/-  
(CA. COTHA S SRINIVAS)  
MEMBER



**CONFIDENTIAL**

**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-105/2017-DD/343/INF/2017/DC/1319/2020]**

**In the matter of:**

**CA. Paresh Sumant Mokashi (M. No. 144118)**  
Manorama Society, Sant Namdev Peth  
Cross Road no. 2, Dist. Thane, Dombivali(East)  
Dombivali-421201

.....Respondent

**MEMBERS PRESENT:**

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

**DATE OF FINAL HEARING: 10.07.2023 (Through Physical/ Video Conferencing Mode)**

**PARTIES PRESENT**

**Respondent : Through VC from BKC Office, Mumbai**

**Counsel for the Respondent: Shri S. G Gokhale, Advocate (Through VC from BKC Office, Mumbai).**

**BACKGROUND OF THE CASE: -**

1. The background of the case is as under:
  - a. A letter dated 20<sup>th</sup> February 2017 was received from Shri B.R. Mundra, Pune (hereinafter referred to as the "Informant") containing allegations against M/s Bhave & Bhave Associates, Pune.
  - b. The Respondent was appointed as Statutory Auditor of M/s Laxmi Vilas Co-op Housing Society (hereinafter referred to as the "Society") for the financial year 2015-16.
  - c. Shri B.R. Mundra is a member of the Society.
  - d. In the audit report issued by him, the Respondent awarded 'A' classification to the Society, which was not accepted by the General Body of the Society as they found it incorrect.
  - e. Subsequently, the Respondent re-audited the revised financial statements prepared by the Society and issued a 'Rectified Audit Report'.
  - f. Both the audit reports were undated.

**CHARGES IN BRIEF: -**

2. The Committee noted that the charge against the Respondent is that he had changed the figures in the audit report but overlooked other related parts. Following errors in financial statements were alleged by the Informant:-
  - a. Interest amount on FDs was not correct.
  - b. Amount of TDS was not correct as the same did not match with 26AS.
  - c. TDS certificates were not even obtained from banks.
  - d. Provision for Income tax liability for FY 2015-16 was not at all made.
  - e. Interest amount earned on sinking fund and transferred to 'Reserve' was not correct.
  - f. Reserves were not backed by long term investments.

3. The Committee noted that the Respondent had not submitted his reply at the stage of PFO.
4. The Director (Discipline) observed as under:
- 4.1 On perusal of papers on record it was noted that the Respondent had issued two Audit Reports alongwith financial statements for financial year 2015-16 original as well as rectified. It was also noted that there are variations in figures as stated by Informant, the same are as under:

**Deviations between the Original Report and the Rectified Report**

S.No	Doc Ref	Account Head	Original Report	Rectified Report
1	Income/Expense statement (Expense side)	Income Tax (15-16)	0	2,48,753
2	-Do-	Repairs and Maintenance Fund	4,57,967.35	3,68,996.67
3	-Do-	Sinking Fund	1,52,655.79	1,84,498.33
4	Income/Expense statement (Income side)	Interest on S.B. A/c	1,25,681	1,21,521
6	-Do-	Interest on Sinking Fund FD	6,66,825.14	5,53,495
7	-Do-	Interest on Short Term Deposit	0	54,281
8	Balance Sheet (Liability Side)	Repairs & Maintenance Fund during the year	18,02,474.35	17,13,503.67
9	-Do-	Sinking Fund	6,01,516.79	6,33,359.33

		during the year		
10	-Do-	Surplus during the year	9,227.44	(2,54,554.42)
11	Balance Sheet (Assets Side)	Investments in Fixed Deposits – UCO bank- Soc name	66,54,292	65,99,358
12	-Do-	Investments in Fixed Deposits – UCO bank – Soc name (Short term)	19,36,580	19,32,922
13	-Do-	Accrued interest on OTM Fund	2,10,648	1,76,115
14	Balance Sheet (Assets Side)	TDS for FY 15-16	3,04,948	3,25,091

- 4.2 It was further noted that both the audit reports signed by the Respondent were undated. The Director (Discipline) noted that though the same was not part of the original complaint of Informant, therefore, this aspect had not been examined.
- 4.3 In absence of any defence of the Respondent, the Respondent was held prima facie **Guilty** by the Director (Discipline) with respect to the charges alleged as per information letter.
5. Accordingly, the Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional Misconduct and Conduct of Cases) Rules, 2007, held the Respondent Prima facie **Guilty** of Professional Misconduct falling within the meaning of Items (5), (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said clauses to the Schedule to the Act, states as under:

**Item (5), (6) and (7) of Part I of the 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.

(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity.

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

**BRIEF FACTS OF THE PROCEEDINGS:**

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

S.No.	Date	Status of Hearing
1.	08.09.2020	Adjourned at the request of the Respondent
2.	06.04.2023	Adjourned at the request of the Respondent
3.	30.05.2023	Adjourned at the request of the Respondent
4.	20.06.2023	Part Heard and Adjourned
5.	10.07.2023	Heard and Concluded

7. The Committee noted in the hearing held on 20<sup>th</sup> June 2023 that the Respondent and his Counsel Shri S.G. Gokhale, Advocate, were present from the BKC office of the ICAI at Mumbai. The Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he pleaded guilty to the charges alleged. On the same, the Respondent



replied in the affirmative and pleaded Not Guilty to the charges levelled against him.

7.1 Thereafter, the Respondent Counsel presented his line of defense by presenting the arguments in the matter by relying on the submissions of the Respondent 16<sup>th</sup> June 2023.

7.2 The Committee thereafter decided to adjourn the matter to a future date.

8. The Committee in this regard noted the submissions dated 16<sup>th</sup> June 2023 wherein the Respondent had, inter-alia, stated as under:

- a. That he was auditor for the financial year 2015-16 of Society and has awarded 'A' classification to the Society.
- b. At the Annual General Meeting of the Society held on 29<sup>th</sup> September 2016, the General Body decided to revise the financial statements.
- c. That no reaudit done in the matter and only the revised items were checked, and report was given a fresh.
- d. The difference in the original and the revised financial statements was basically on account of the availability of further information, being the bank statements about interest calculation after the finalisation of the accounts. The difference is minimal.
- e. The original calculations were methodically made by the Society. Therefore, there was no question of lack of due diligence or negligence at the time of auditing the original financial statements.
- f. Few deviations were related to the transfer of reserves and the remaining were on account of firstly not making provision for taxation and then revising the same. There is no financial impact of the alleged errors.
- g. It cannot be said that the original financial statements did not give a true and fair view.
- h. Nobody in the present case can be said to be prejudiced nor is anyone put to unfair and undue loss or profit.
- i. No malafide intention can be attributed to anyone, including the auditors, in the given situation.

- j. The sinking fund amount received from members was first deposited in the Savings Account and from there the amount was transferred to fixed deposits. Interest accruing during the intervening period in the savings bank account was originally considered as interest in the Saving account and in the revised statements said interest amount is considered as sinking fund interest and not saving interest. The amount involved is Rs. 4160/- and not material and it does not reflect on materiality or true and fair view.
- k. While preparing the financial statements originally, full data of accrued interest on FD was not available from the bank.
- l. The accrued interest was considered based on his own calculations and supporting vouchers thereof. On availability of the information from the bank, it was considered in the revised statements.
9. On the day of the final hearing dated 10<sup>th</sup> July 2023, the Committee noted that the Respondent and his Counsel were present and appeared before it.
- 9.1 The Committee noted that the Respondent/ his Counsel submitted his line of defence in detail, inter-alia, submitting as under:
- a. With regard to non-mentioning of date, the Respondent/Respondent Counsel accepted that dates have not been mentioned in the Audit Report and financial statements of subsequent report. He accepted that it was an inadvertent error.
- b. Since the representation of the financial statements was not proper, so the AGM decided that the Balance Sheet should be revised.
- c. With regard to six errors alleged, five errors were rectified in the revised report.
- d. As regards the sixth error related to reserves being not backed with fixed deposits, it was submitted that long term reserves of the Society were Rs. 3,80,35,690/- as against the same fixed deposits were Rs. 3,68,43,430/-. So, there was a difference of Rs. 11.2 lakhs. This difference is due to the TDS amount for earlier period which got accumulated over a period and

was not added to investments. He referred Annexure B of his submission dated 16<sup>th</sup> June 2023 in this regard.

- e. The Society in the past made provision every year and they were paying the taxes. Some dispute was going on in the High Court at Aurangabad about whether the Society should be subject to tax. The Managing Committee of the Society in a particular year decided that instead of making provision, the liability of income tax would be settled as and when it arises.
- f. However, subsequently, in AGM it was decided to continue with the existing practice of making provision and this was the reason for the difference of Rs. 248753/- in Income Tax.

9.2 After detailed deliberations, and on consideration of the facts of the case, various documents on record as well as oral submissions of Respondent before it, the Committee decided to conclude the hearing in the instant case.

#### **FINDINGS OF THE COMMITTEE:**

10. The Committee noted that in the present case, the issue that the Respondent had signed two sets of financial statements for the financial year 2013-14. The first set was not accepted by the General Body of the Society as various errors were found in the first set. Subsequently, the Respondent re-audited the revised financial statements prepared by the Society and issued a 'Rectified Audit Report'. The Committee noted that there were differences in both sets as elaborated in Para 4.1 above.
11. The Committee noted that the informant had mentioned six types of errors in the financial statements which are as under:
  - a. Interest amount on FDs was not correct.
  - b. Amount of TDS was not correct as the same did not match with 26AS.
  - c. TDS certificates were not even obtained from banks.
  - d. Provision for Income tax liability for FY 2015-16 was not at all made.

- e. Interest amount earned on sinking fund and transferred to 'Reserve' was not correct.
- f. Reserves were not backed by long term investments.
12. As regards the first five errors, the Respondent/ his Counsel submitted that the same was rectified in the second set of financial statements. The Committee noted that the acceptance of rectification itself proves that the Respondent failed to exercise the requisite diligence in the conduct of the professional duties in certification of the first set.
13. As regards the interest amount on FDs the Committee noted that the Respondent accepted that while preparing the financial statements originally, full data of accrued interest on FD was not available from the Bank and that calculation was done on the basis of management's own calculation. The Committee in this regard noted that if the details were not available, then the fact was required to be reported by the Respondent in his Audit Report. However, the Respondent failed to give any qualification in this regard in his audit report.
14. As regards the difference in amount of TDS and non-obtaining of TDS certificates, the Respondent rectified the same in the second set of financials. On perusal of both sets, the Committee noted that there was difference of Rs. 20,143/-. The rectification of the Respondent proves acceptance of negligence made by the Respondent while certifying the first set.
15. As regards variation under the head provision for income tax, the Committee noted that in the first set no provision was made, whereas in the second set the same was Rs. 248753/-. The Respondent submitted that in first report the management said that no provision was needed and subsequently in the revised report they said that provision should be made. Since the amount was substantial, hence, it was duty of the Respondent to report in first report that provision has not been made by the Society. Further, there was a mandatory

requirement of creation of provision of Income tax as per AS-22 "Accounting for taxes on Income". The Committee observed that the Respondent had mere accepted the view of management and had not exercised his own diligence in conduct of his duties.

16. As regards the interest amount in sinking funds, the Committee noted that the Respondent himself stated that the interest on Long term deposits for the credit of repairs funds & sinking funds was in the ratio of 2:1 prior to financial year 2015-16 and in year 2015-16 the managing committee of the Society decided to allocate the interest in the ratio of 3:1. In revised report also 2:1 ratio was reconsidered. The Committee noted that in the original report the Respondent should have reported that there was variation in policy followed by the Society in current financial year.
- 16.1 The Committee noted that the Respondent also failed to report that the sinking fund amount received from members was first deposited in a saving account from where amount was transferred to fixed deposits. Interest during the intervening period accruing was credited to savings bank account in the first set, however in revised financial statements the said interest amount was considered as sinking fund interest. The Committee noted that this clearly proves that the Respondent had blindly relied on management representation and their views but did not apply his own due diligence.
17. As regards the variation related to reserves not backed by long term investments, the Committee noted that the Respondent in annexure B of his submissions dated 16<sup>th</sup> June 2023 had submitted that the difference is due to the TDS amount of earlier period was not added to the investments. The Committee noted that TDS is not made on the investment but is made on the income from such investment. The Committee accordingly rejected the submission of the Respondent as it is apparent that there were short investments and the Respondent failed to report about the same in the audit report(s).

18. The Committee noted that a true and correct picture was not reported by the Society as when such errors were not reported, in that case, there was a surplus after rectification of such errors. The surplus resulted in loss. So a correct picture of books of accounts was not reflected, which the Respondent as an auditor, failed to report.
19. The Committee also noted that audit report were undated. In this regard, the Committee noted that Paragraph 13 of SA700, "Forming an opinion and Reporting on Financial Statements" states as under:

*"Date of the Auditor's Report*

13. *The auditor's report should be dated not prior to the date on which auditor has gained adequate and appropriate audit evidence based on which the auditor's opinion on financial statements, together with evidence that:*
- (i) All statements which comprise financial statements, together with the related notes, are prepared.*
  - (ii) Those with recognised authority have declared that they have taken due responsibility for such financial statements."*

20. However, in the extant case, the Respondent as an auditor failed to mention the date on which he had signed the audit report. The Committee also noted that the Respondent himself accepted that no date was mentioned on the second report, and it was an inadvertent error.
21. In view of the above, the Committee was of considered view that the Respondent was not only grossly negligent in conduct of his professional duties but also has failed to disclose material fact known to him and also failed to report material misstatements known to him.

**CONCLUSION**

22. In view of the above observations, considering the submissions of the Respondent and documents on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5), (6) & (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, IAS, RETD.)**  
**GOVERNMENT NOMINEE**

**SD/-**  
**(CA. SANJAY KUMAR AGARWAL)**  
**MEMBER**

**SD/-**  
**(CA. SRIDHAR MUPPALA)**  
**MEMBER**

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

**PLACE: NEW DELHI**

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy  
*Nitika Gupta*  
सीए नीतिका गुप्ता / CA. Nitika Gupta  
सहायक निदेशक / Assistant Director  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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