



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-I (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.

[PR/235/2016/DD/261/2016/DC/1578/2022]

In the matter of: -

Serious Fraud Investigation Office,
Through Sh. K.S. Kaushik,
Ministry of Corporate Affairs,
Government of India,
2nd Floor, Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi – 110003

.....Complainant

-Vs-

CA. Ramesh Kumar Maheshwari (M. No. 058398)
M/s. Maheshwari K R & Co.
Chartered Accountant,
16, British India Street,
2nd Floor, Room No. 20,
Kolkata (West Bengal) – 700069

.....Respondent

MEMBERS PRESENT: -

CA. Charanjot Singh Nanda, Presiding Officer
Shri Jugal Kishore Mohapatra, IAS (Retd.) (Government Nominee)
CA. Chandrashekhar Vasant Chitale, Member

Date of Hearing : 2nd April 2024

Date of Order : 26.06.2024

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 noted that CA. Ramesh Kumar Maheshwari, (M. No. 058398) (hereinafter referred to as the Respondent") was held GUILTY of professional misconduct falling within the meaning of Item (5), (6), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



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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 communication was addressed to him thereby granting opportunity of being heard in person / through video conferencing and to make written & verbal representation before the Committee on 2nd April 2024.
3. The Committee noted that on the date of the hearing held on 2nd April 2024, the Respondent was present through video conferencing, and he made his verbal submission on the findings of the Disciplinary Committee.
4. In his verbal submission the Respondent inter alia stated that they have done the audit on the basis of facts that have been produced before them. He further submitted that the Company has suppressed the facts regarding collection of deposit.
5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis verbal submissions of the Respondent.
6. Keeping in view the facts and circumstances of the case, material on record including verbal submissions of the Respondent on the findings of the Committee, the Committee is of the view that the professional misconduct on the part of the Respondent is established. Accordingly, the Committee ordered that the name of Respondent i.e., CA. Ramesh Kumar Maheshwari (M. No. 058398) be removed from the Register of members for a period of three months and a fine of Rs. 1,00,000/- (Rupees One Lakh only) be imposed upon the Respondent to be paid within 90 days of receipt of the Order. If the Respondent fails to pay the fine within the stipulated period, his name be removed from the Register of Member for an additional period of one month.

Sd/-

(CA. CHARANJOT SINGH NANDA)
(PRESIDING OFFICER)

Sd/

(SHRI JUGAL KISHORE MOHAPATARA),
I.A.S. (RETD.), (GOVERNMENT NOMINEE)

Sd/-

CA. CHANDRASHEKHAR VASANT CHITALE
(MEMBER)

Place : 26.06.2024

Date : New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित /
Certified to be true copy

निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (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

Ref. No. – [PR/235/2016/DD/261/2016/DC/1578/2022]

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.....Complainant

Versus

CA. Ramesh Kumar Maheswari (M. No. 058398)
M/s Maheshwari K R & Co., Chartered Accountants,
16, British India Street, 2nd Floor, Room No. 20,
Kolkata- 700069s

.....Respondent

MEMBERS PRESENT: -

- i) CA. Aniket Sunil Talati, Presiding Officer
- ii) Sh. Jugal Kishore Mohapatra, IAS (Retd.) (Government Nominee)-
Through Online Mode
- iii) Shri Prabhash Shankar, IRS (Retd.), (Government Nominee)
- iv) CA (Dr). Rajkumar Satyanarayan Adukia, Member
- v) CA. Gyan Chandra Misra, Member

DATE OF FINAL HEARING : 31-10-2023
PLACE OF FINAL HEARING : New Delhi / Through Video Conferencing

Parties Present:

Complainant's Representative : Ms. Upanshu Saini
Respondent : CA. Ramesh Kumar Maheshwari

BRIEF OF THE DISCIPLINARY PROCEEDINGS: -

- 1- On the day of hearing held on 31st Oct 2023, the Committee noted that the Respondent and the Complainant's representative were present through VC. Thereafter, the Respondent was put on oath and on being enquired as to whether he is aware of the charges levelled against him and whether he pleads himself guilty or not, the Respondent submitted that he is aware of the charges and pleaded himself not guilty. Thereafter, the Respondent made his brief submissions on the allegations. The Committee also posed questions to the Respondent. After hearing the submissions, the Committee decided to conclude the hearing in the above matter. The Committee directed both Complainant and Respondent to file their final written submissions in 7 days. With this, the hearing in the matter was concluded and the judgement was kept reserved.

2- BRIEF BACKGROUND OF THE MATTER: -

It is stated that the Ministry of Corporate Affairs, Government of India vide its order dated 26/04/2013 ordered SFIO to investigate into the affairs of the Icore E-Services Ltd and its 11 group-companies (hereinafter cumulatively referred to as 'Icore Group Companies'). Accordingly, an investigation into the affairs of Icore group companies was conducted by SFIO and the Investigation Report dated 31.08.2015 was submitted to the Central Government.

It is further stated that the Icore Group companies positioned themselves as entities engaged in various industrial segments like iron & steel, cement, gems and

jewellery and consumer goods etc. However, three of the group companies, namely Icore E-services Ltd. (IESL), Riju Cement Ltd (RCL) and Mega Mould India Ltd. (MMIL) were actually collecting deposits from public in the guise of raising funds through Redeemable Preference Shares, Secured Non-Convertible Debentures and Advance Product Booking Instalment Scheme (APBIS).

It is stated that the Respondent was the Statutory Auditor of M/s Icore E-Services Ltd (IESL), M/s Riju Cement Ltd. (RCL), M/s Icore Apparels Pvt. Ltd. (IAPL), M/s Icore Paints Pvt. Ltd. (IPPL), M/s Icore Iron & Steel Pvt. Ltd. (II&SPL) and M/s Icore Super Cement Pvt. Ltd (ISCPL) for the financial years 2008-09 & 2009-10, and of M/s Icore Global Medicines Ltd (IGML) and Icore Poly Fab Pvt. Ltd (IPFPL) for the financial year 2009-10.

Detailed Allegations:

The Complainant has alleged that during investigation, several material misstatements, misclassifications, concealments, fictitious accounting entries, acceptance of public deposits in the garb of preference shares and debentures, misappropriation of funds received from the public, grant of interest free loans to group companies etc. which were prejudicial to the interest of the Company, were found in the financial statements of Icore Group Companies. These transactions / entries should have been reported in the Auditor's Report of the Respondent issued on those financial statements. But perusal of auditor's report for the said years revealed that the Respondent did not qualify the aforesaid statutory violations done by the Icore Group Companies in their financial statements. The Complainant has raised the allegations in respect of certain group companies individually which are as under:

- (i) **Icore E-Services Ltd (hereinafter referred to as 'IESL'):**
 - a) During the financial year 2008-09, the financial statements were prepared and filed with the forged signatures of Directors, which was not disclosed by the Auditor and the same could not have been done without his connivance.

- b) The financial statements for the FYs 2008-09 and 2009-10 had been filed with incorrect authorized share capital.
- c) False information was submitted to ROC by filing information through financial statement with regard to false security premium for the FYs 2008-09 & 2009-10 and with regard to Share Application Money of 'M/s Trilokee Enterprise' in Icore E-Services Ltd. for the FY 2009-10.
- d) Further, it has been alleged that the money collected from the public under APBIS scheme (Recurring Deposit) was not reflected in the financial statement of FYs 2008-09 and 2009-10, which shows gross negligence and misconduct on the part of the Respondent being the Auditor.
- e) It has been further alleged that financial statements for the FY 2008-09 submitted to ROC showed false loans given to M/s Icore Apparels Pvt Ltd (IAPL) and M/s Papyrus Infotech Private Limited (PIPL). All this was not mentioned by the Respondent in his audit report and hence, there was professional misconduct on the part of the Respondent, being the Auditor of Icore E-services Ltd.
- (ii) **Riju Cement limited (hereinafter referred to as 'RCL'):**
During the financial year 2009-10, the deposits collected from public in the name of NCD (FD) by the Company were not reflected in its financial statements. The investigation further revealed the non-accounting of commission and interest accrued by the Company in its financial statements. It is also alleged that false figures of security premium were shown in the balance sheet.
- (iii) **Icore Jewellery & Gems Pvt. Ltd. (hereinafter referred to as 'IJ&GPL')**
In the financial year 2009-10, false investments were shown in the balance sheet and the Respondent, being the Auditor of the Company, did not give any adverse remarks / qualifications on such transactions in his audit report.
- (iv) **Icore Apparels Pvt. Ltd. (hereinafter referred to as 'IAPL'):**
During the financial year 2008-09, false information was provided in the Balance Sheet, Form 20B regarding issue of shares and the liability of Rs.

1,45,69,778 were not reflected in the Balance Sheet. During the financial year 2009-10, false information was provided in the Balance Sheet, Form 20B regarding issue of shares and advanced received for capital in 2008-09 was wiped off in the said financial year.

- (v) **Icore Iron & Steel Pvt. Ltd. (hereinafter referred to as 'II&SPL'):**
During the financial years 2008-09 and 2009-10, false entries of Security Premium were shown in the balance sheet.
- (vi) **Icore Global Medicines Ltd (hereinafter referred to as 'IGML') and Icore Polyfab Pvt. Ltd (hereinafter referred to as 'IPFPL'):**
During 2009-10, false entries of Security Premium were shown in the balance sheet.
- (vii) **Icore Paints Pvt. Ltd. (hereinafter referred to as 'IPPL'):**
During the financial years 2008-09 and 2009-10, false entries of share premium were shown in the Balance Sheet and fictitious and misclassification of Security Premium was done.
- (viii) **Icore Super Cement Pvt. Ltd (hereinafter referred to as 'ISCPL'):**

Violation in the financial year 2008-09

- a) The financial statements pertaining to FY 2008-09 were falsified and created false entries of investment (share capital, share premium, share application money and unsecured loan), thereby not giving true and fair picture of the affairs of the Company. The Respondent, being the Statutory Auditor of the Company, failed to give any qualification / adverse remarks in his audit Report.
- b) It was observed that during the financial year 2008-09, no security premium was received by the Company as intimated in Form 2, however, balance sheet of this financial year showed that the Company had received Rs. 14 Lakhs as security premium and the Respondent did not qualify the above entries / transactions in is audit report.

Violation in the financial year 2009-10

- c) During the FY 2009-10, Rs. 14 lakhs as security premium were shown as received in Form-2, whereas, in the relevant Balance sheet, the figure of security premium was shown as Rs. 177.55 lakhs and the Respondent did not qualify the above entries / transactions in his audit report.
- d) As per Financial statements for the financial year 2009-10, the closing stock was shown as Rs. 8.01 lakhs whereas in the financial statement of FY 2010-11, the opening stock was reflected as Rs. 245.01 lakhs, which was against the accounting principles since closing entry of the preceding year must tally with the opening entry of the current year. This resulted in inflation of inventory and the Respondent did not qualify the above entries / transactions in his audit report.

The Respondent had not furnished qualified audit report regarding various contraventions made by Icore group companies. Thus, from the above instances of discrepancies, it has been alleged that the financial statements of Icore E-services Limited and its group companies did not reflect the true and fair view of state of affairs of Icore Group Companies for which the Respondent was the Statutory Auditor.

The Committee noted that the Director (Discipline) has held Respondent prima facie guilty in respect aforesaid allegations except on allegation pertaining to preparation & filing of financial statements of IESL for the financial year 2008-09 with forged signature and on allegation pertaining to discrepancy in opening stock of ISCPL for the financial year 2010-11 since he was not the auditor for the said financial year.

6- SUBMISSION OF THE RESPONDENT AND FINDINGS OF THE COMMITTEE

- 6.1 The Respondent in his verbal and/ or written submissions stated that he has relied upon the documents produced before him by the Management of the Company. The Respondent also submitted that since no information was made available to him regarding the collection of recurring deposit and there was total suppression of facts by the Company's Management hence the reporting requirements u/s 58AA of the Companies Act, 1956 could not be done by him.
- 6.2 The Respondent further submitted that he had nothing to suspect at the time of his audit and he has merely relied upon what has been produced before him and this was the reason, he could not mention anything in his audit report since nothing adverse has come to his notice that would have been a basis for him to report in his audit report. The Committee noted that the Respondent was not able to produce any supporting third-party evidence. Further he was not able to satisfy the Committee that he has applied any specific audit procedures while conducting his audit that would have been essentially required in the instant matter.
- 6.3 The Committee observed that on being asked to exhibit the working papers or audit procedures, the Respondent claimed that the said working papers are kept in the audit section of the subject Company and not in his possession as on date. He further submitted that the CBI on its investigation has seized all relevant documents. The Committee also observed that the Respondent has also not placed any subsequent request to CBI asking them to provide copies of these documents for his records and future reference. Committee observed that there were multiple instances of misstatements done by various Companies of the Group like showing false Security Premium by Companies for multiple financial years, false Investment reporting, Non-accounting of Deposits collected by multiple Companies from public in disguise of non-convertible debentures, fixed deposits etc. however, it was observed that the Respondent could not come across any such instance of misreporting which makes it amply clear that the Respondent, being independent Statutory Auditor, did not exercise due diligence and failed to perform reasonable audit verification procedures that were required in the instant matter.
- 6.4 With respect to the charges in reference to the above-named entities, on perusal of Investigation report and other relevant documents on record viz a viz written and verbal submission of the Respondent, it has come to the notice of the Committee

