



# 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-III (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/278/2021/DD/261/2021/DC/1768/2023

#### In the matter of:

CA. Suresh Babu V P,  
1<sup>st</sup> Floor, Madeena Complex,  
Pampan Madhavan Road, Talap,  
Kannur (Kerala) – 670002

....Complainant

#### Versus

CA. Jagannath Holenarasipur Ramappa (M. No. 200372)  
No. 105, Indira, 3<sup>rd</sup> A,  
Main Road, 15<sup>th</sup> Cross,  
Gokulam, 2<sup>nd</sup> Stage,  
Mysuru (Karnataka) – 570002

.....Respondent

#### MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer (Present in Person)  
Smt. Anita Kapur, Government Nominee (Present in Person)  
Dr. K. Rajeswara Rao, Government Nominee (Present through Video Conferencing Mode)  
CA. Piyush S. Chhajer, Member (Present in person)

Date of Hearing: 2<sup>nd</sup> May 2024

Date of Order: 31<sup>st</sup> July, 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 dated 3<sup>rd</sup> October 2023, the Disciplinary Committee was, inter-alia, of the opinion that CA. Jagannath Holenarasipur Ramappa (M. No. 200372) (hereinafter referred to as the "Respondent") was GUILTY of Professional Misconduct falling within the meaning of Item (1) of Part-II of Second Schedule and Item (8) of Part-I of First Schedule to the Chartered Accountants Act, 1949.

2. The Committee noted that the charge against the Respondent is that he had conducted tax audit of M/s Peekey Enterprises (hereinafter referred to as the "Firm") for the



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financial year 2019-20 without communicating with the Complainant, the previous auditor of the said firm. It is further noted that the Respondent had accepted the audit assignment without clearance of pending bills of the Complainant which is in violation of Council General Guidelines issued on 8<sup>th</sup> August, 2008.

3. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person/through video conferencing and to make representation before the Committee on 2<sup>nd</sup> May 2024.

4. The Committee noted that on the date of hearing held on 2<sup>nd</sup> May 2024, the Respondent was not present before the Committee. However, he vide his email dated 23<sup>rd</sup> April 2024 submitted that he will abide by the decision of the Disciplinary Committee and requested to consider his previous submissions in the matter. Accordingly, the Committee in absence of the Respondent decided to proceed ahead on merits of the matter.

5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis earlier submissions of the Respondent in the matter made before it.

6. Keeping in view the facts and circumstances of the case, along with the material on record including representations on the findings, the Committee noted that the audit report of the Firm was signed by the Respondent on 13<sup>th</sup> January 2021. The Committee further noted that Respondent failed to bring any positive evidence to substantiate that he had communicated with the Complainant through registered post before accepting his appointment. The Committee further observed that the pending fees of the Complainant were not cleared till June 2021. However, the Respondent had issued the audit report in January 2021 which is in violation of the provisions of Chapter VII of the Council General Guidelines 2008. This conduct of the Respondent constitutes Professional Misconduct as per Item (1) of Part-II of Second Schedule and Item (8) of Part-I of First Schedule to the Chartered Accountants Act, 1949.

7. The professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 3<sup>rd</sup> October 2023 which is to be read in conjunction with the instant Order being passed in the case.

8. The Committee noted that there was no malafide intent on the part of the Respondent and it was a mere procedural lapse on the Respondent's part. The Committee further noted that the dues of the Complainant were cleared on 23<sup>rd</sup> June 2021 due to the intervention of the Respondent. The Committee also noted that the Respondent in his submissions had apologized for the procedural mistakes and requested for a lenient view in this matter.



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9. Accordingly, the Committee, upon considering the nature of charge and the facts of the matter ordered that CA. Jagannath Holenarasipur Ramappa (M. No. 200372) be reprimanded.

sd/-

(CA. CHARANJOT SINGH NANDA)  
PRESIDING OFFICER

sd/-

(SMT. ANITA KAPUR)  
GOVERNMENT NOMINEE

sd/-

(DR. K. RAJESWARA RAO)  
GOVERNMENT NOMINEE

sd/-

(CA. PIYUSH S CHHAJED)  
MEMBER

DATE: 31<sup>ST</sup> JULY, 2024

PLACE: NEW DELHI

सारी प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

बिष्वा नाथ तिवारी / Bishwa Nath Tiwari  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनालयक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आइसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – III (2023-24)]**  
**[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**

**[PR/278/2021/DD/261/2021/DC/1768/2023]**

**In the matter of:**

**CA. Suresh Babu V P,**  
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No. 105, Indira, 3<sup>rd</sup> A,  
Main Road, 15<sup>th</sup> Cross,  
Gokulam, 2<sup>nd</sup> Stage,  
Mysuru (Karnataka) – 570002

....Respondent

**MEMBERS PRESENT:**

**CA. Aniket Sunil Talati, Presiding Officer (ICAI, Ahmedabad)**  
**Smt. Anita Kapur, Member (Govt. Nominee)**  
**Dr. K Rajeswara Rao, Member (Govt. Nominee)**  
**CA. Piyush S Chhajer, Member**

**Date of Final Hearing: 23<sup>rd</sup> August, 2023 through Video Conferencing**

**Charges in Brief:**

1. The Committee noted that in the *Prima Facie* Opinion formed by 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, the Respondent was held *prima facie* guilty of Professional and Other Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949. Item (1) of Part II of Second Schedule and Item (8) of Part I of First Schedule state as under: -

Part II of Second Schedule read with Chapter VII of the Council Guidelines 2008:

*Part II of Second Schedule*

*Professional misconduct in relation to members of the Institute generally*

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

...

*"(1) Contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council."*

*Council Guidelines No.1-CA(7)/02/2008, dated 8th August, 2008*

*Chapter VII*

*Appointment of an Auditor in case of non-payment of undisputed fees*

*"A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid."*

*Part I of First Schedule: A chartered accountant in practice shall be deemed to be guilty of misconduct, if he-*

...

*"(8) accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate rules, 1932 without first communicating with him in writing."*

**Brief background and the allegations against the Respondent**

2. It was alleged against the Respondent that he had conducted audit of M/s Peekey Enterprises (PAN: AATFP1259M) (hereinafter referred to as the "Firm") for the financial year 2019-20 without communicating with the Complainant, the previous auditor of the said firm, when the Firm had not settled previous bills of the Complainant. It was further stated that the Complainant had communicated the said matter to the Respondent vide letter dated 10<sup>th</sup> April 2021 however, the Respondent instead of verifying the matter, informed him that the audit report dated 13<sup>th</sup> January 2021 under UDIN: 21200372AAAAED7858 was not signed by him and that he had not attested the financial statements of the Firm.

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Proceedings

3. During the hearing held on 23<sup>rd</sup> August 2023, the Committee noted that that neither of the parties appeared before it for the hearing. Further, it was noted that the Complainant vide email dated 19<sup>th</sup> August 2023 expressed his inability to attend the hearing as he was out of station for professional work. He further informed the Committee that he had submitted full documents / details pertaining to the case and that he had nothing more to submit. Accordingly, he requested the Committee to proceed with the matter based on the said submissions.

Further, the Committee noted that the Respondent vide email dated 18<sup>th</sup> August 2023, sought exemption from appearing before it on account of personal assignment. He stated that he would abide by the decision of the Disciplinary committee and that he had already sent his reply on the matter. Accordingly, the Committee decided to proceed with the matter.

Based on the documents available on record and after considering the written submissions of the parties concerned, the Committee concluded hearing in the matter and decided that the Respondent was Guilty of Professional misconduct falling within the meaning of Item (8) of Part I of First Schedule and Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Findings of the Committee

4. At the outset, it was noted that the Respondent had conducted audit of M/s. Peekey Enterprises (hereinafter referred to as 'the Firm') for the financial year 2019-20 without communicating with the Complainant when the pending bills of the Complainant were not settled by the Firm, It was alleged that the Respondent had failed to verify about the unsettled dues and conducted the audit of the said firm. It was further stated that the Complainant had communicated the matter to the Respondent vide letter dated 10<sup>th</sup> April 2021 (C-4), however, the Respondent instead of verifying the matter, informed the Complainant that the audit report dated 13<sup>th</sup> January 2021 in relation to the Firm (C-6 to C-7) under UDIN: 21200372AAAAED7858 was not signed by him and that he had not attested the financial statements of the Firm.

4.1 The Respondent in his defence stated that there was no mala fide intention of creating any kind of hinderances to the Complainant. As per him, he had sent a letter of intimation dated 12<sup>th</sup> November 2020 to the Complainant intimating about his appointment as the Auditor with the Firm and sought NOC for the same. However, on account of procedure lapse by the Office staff (due to internal miscommunication in the office), the said letter was posted by way of 'Ordinary post' which did not carry any evidence that could be re-produced. Accordingly, he was able to produce only the extracts of 'Outward Register' maintained at their office in justification of the same (D-3). Since, he had not received any objection, he continued to finish the assignment and completed the audit services.

4.2 As regards his letter dated 10<sup>th</sup> April 2021, wherein he denied having conducted tax audit of the Firm during the alleged period, the Respondent submitted that the timing of the said letter from the Complainant was the peak timings of corona infections all over and even he was quarantined at that point of time. He also produced on records a medical document in evidence of the same. In such a situation, he depended on the UDIN website - the limited information and access as available with him to check whether the Audit of the said Firm was carried on by him. As per him, on UDIN portal using the PAN details of the client, he found that no UDIN was generated by him on the said PAN number and hence he concluded that he was not the auditor of the client and accordingly, he replied to the Complainant.

4.3 It was, on the resumption of office, in June-July 2021, when he received subsequent letter from the Complainant along with the copies of financials signed by him, seeking clarification again on the said point, he corrected the position and admitted having conducted the audit.

4.4 As regards pending fees, the Respondent submitted that at the time of acceptance of audit, it was informed to the client to clear the outstanding and on enquiring the client regarding this, the client's response was that the measures were being taken to clear the outstanding and as the due date for filing the returns was approaching i.e 15<sup>th</sup> January 2021 and that he had not received any objection from the Complainant, so he took up the audit for completing it within the due date. He further submitted that to ensure the protection of interest of fellow professional, he insisted to the client for the immediate clearance of pending fees as on 23/06/2021 which was further confirmed by the client to have been cleared.

4.5 The Respondent, finally, prayed that there was no malafide intent of creating any kind of hinderances to the Complainant, but it was just a mere lapse of procedure due to internal miscommunications in the office. Vide email dated he had unconditionally apologized for the

procedural mistakes committed while accepting the audit and requested the Committee to take a lenient view in this matter.

5. The Committee noted that the Respondent had admitted that about procedural lapse in obtaining the NOC from the previous auditor. It was noted that the Respondent had sent the letter to the Complainant for obtaining NOC through ordinary post instead of registered post. The Committee, in this regard, noted that as per the Code of Ethics- 2009, incoming Auditor should always communicate with the retiring auditor in such a manner as to retain in his hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent "*Registered Acknowledgement due*" or by hand against a written acknowledgement would in normal course provide such evidence. In the extant case, the Respondent had clearly admitted having failed to communicate with the previous auditor through a mode vide which evidence be available with him regarding the said communication. Accordingly, it was viewed that the Respondent failed to provide any document on record to demonstrate compliance of the requirements of Code of Ethics. Thus, the Committee was of the considered opinion that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part- I of First schedule to the Chartered Accountants Act, 1949.

6. As regards the allegation of acceptance of audit assignment by the Respondent without clearance of pending bills of the Complainant, the Committee noted that the Respondent had submitted to have not cleared the pending fees before June 2021 though he had issued the audit report in January 2021. Accordingly, it was well established on record that the Respondent had accepted the appointment as Tax auditor in violation of the provisions of Chapter VII of the Council General Guidelines 2008. Thus, the Committee was of the considered opinion that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning Item (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949 *read with Chapter VII of the Council Guidelines 2008.*

7. In light of the above, it was viewed that the Respondent had contravened the provisions of this Act while conducting the audit of the Firm without intimating the Complainant and obtaining his



NOC and ensuring that the undisputed fees be paid. Upon overall examination of facts and keeping in view the submissions of the parties and documents brought on record, the Respondent was held Guilty of Professional Misconduct falling within the meaning of Item (1) of Part-II of Second Schedule and Item (8) of Part-I of First Schedule to the Chartered Accountants Act, 1949.

**Conclusion:**

5. Thus in conclusion, in the considered opinion of the Committee, the Respondent is GUILTY of Professional Misconduct falling within the meaning of Item (1) of Part-II of Second Schedule and Item (8) of Part-I of First Schedule to the Chartered Accountants Act, 1949.

Sd/-  
[CA. Aniket Sunil Talati ]  
Presiding Officer

Sd/-  
[Smt. Anita Kapur]  
Member (Govt. Nominee)

Sd/-  
[Dr. K. Rajeswara Rao]  
Member (Govt. Nominee)

Sd/-  
[CA. Piyush S Chhajed]  
Member

Date: 3<sup>rd</sup> October, 2023  
Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy  
नीर मोहिका गुप्ता / CA. Nirika Gupta  
अहायक निदेशक / Assistant Director  
अनुरासनात्मक निदेशालय / Disciplinary Directorate  
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