



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/127/2021/DD/179/2021/DC/1793/2023

In the matter of:

**Mr. Gopi Krishna Anumasa,
Flat No.405, Block 4,
SMR Vinay Fountain Head Sy. No. 162,
Hydernagar, Miyapur,
Hyderabad 500049**

.....Complainant

Versus

**CA. Pawan Goel (M. No.238669),
Unit No.1, Goel House,
National Police Academy Colony,
Hyderabad 500052**

.....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. Chhajed, Member (Present in person)**

Date of Hearing: 2nd May 2024

Date of Order: 31st 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 3rd October 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Pawan Goel (M. No. 238669)** (hereinafter referred to as the "**Respondent**") was **GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

2. The Committee noted that the Respondent had resigned from the position of auditor of M/s Taproot Farms Pvt. Ltd. (hereinafter referred to as the "**Company**") on 4th November 2020. The charge against the Respondent is that he failed to adhere to obligation to file e-



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form ADT 3 (Resignation of Auditor) within stipulated time as required under Section 140 of the Companies Act, 2013 read with Rule 8 of the Companies (Audit & Auditors) Rules, 2014.

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 2nd May 2024.

4. The Committee noted that on the date of hearing held on 2nd May 2024, the Respondent was present through Video Conferencing Mode and made his verbal submissions on the findings of the Disciplinary Committee.

5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis 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 certain inbuilt checks had been made under various requirements under the Companies Act which were mandatorily required to be complied with. In the present case the Respondent resigned from the Company on 4th November 2020 and hence he was under an obligation to inform the Registrar of Companies by filing ADT 3 within stipulated time. However, he failed to submit the same. The misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 3rd October 2023 which is to be read in conjunction with the instant Order being passed in the case.

7. On consideration of the overall facts of the case, the Committee viewed that it was a mere procedural lapse on the Respondent's part and the ends of justice will be met if punishment commensurate with misconduct is given to the Respondent.

8. Accordingly, the Committee, upon considering the nature of charge and the facts of the matter ordered that **CA. Pawan Goel (M. No. 238669) 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: 31ST JULY, 2024

PLACE: NEW DELHI

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


नीलम पुंडीर / Naalam Pundir
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासन-शास्त्रक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आई सी ए आई भवन, भिखन पुर, नए दिल्ली-110032
ICAI Bhowan, Vistra 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

Ref. No.: **[PR/127/2021/DD/179/2021/DC/1793/2023]**

In the matter of

Mr. Gopi Krishna Anumasa,
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.....Complainant

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CA. Pawan Goel (M.No.238669),
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.....Respondent

MEMBERS PRESENT:

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

Date of Final Hearing: 14th September 2023

PARTIES PRESENT:

- (i) Sh. Gopi Krishna Anumasa – the Complainant
- (ii) CA. Pawan Goel – the Respondent
(Both appeared from personal location 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 (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949. Item (1) of Part II of Second Schedule and Item (2) of Part IV of First Schedule state as under:-

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 provision of this Act or the regulations made thereunder or any guidelines issued by the Council."

Part IV of First Schedule

Other 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 other misconduct, if he-

.....
"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."

Brief Background and allegations against the Respondent

2. It was stated that the Complainant had engaged the Respondent to get M/s Taproot Farms Pvt. Ltd. (hereinafter referred to as the "Company") registered and all the fees was paid to him. The Respondent also rendered the service of filing of Income Tax Return of three of Complainant's family members. As per the Complainant, the Respondent had misadvised him in order to get audit fees of Rs.25,000/- and that he had changed the credential of his father on Income Tax portal without his consent. After dur investigation by Director (Discipline), the Respondent was found to be prima facie guilty for not returning digital signatures despite request made by the Complainant and that he had not filed the form ADT-3 after resigning as auditor of the Company.

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Proceedings

3. During the hearing held on 14th September 2023, the Committee noted that both the parties appeared before it for the hearing through video conferencing. Thereafter, both of them gave a declaration that there was nobody else present in their respective room from where they appeared and that they would neither record nor store the proceedings of the Committee in any form.

Being first hearing, both the Complainant and the Respondent were put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Respondent stated that he was aware of the allegations raised against him and that the same might be taken as read. On being asked as to whether the Respondent pleaded guilty, he pleaded not guilty and opted to defend the case against him.

The Committee asked the Complainant to present the matter before it. Thereafter, the Respondent was asked to make submissions. The Committee examined the Respondent on submissions made by him. Thereafter, certain clarifications were sought from the Complainant based on submissions made by the Respondent. The Respondent made final submissions in the matter.

Based on the documents and information available on record and after considering the oral and written submissions made by both the parties, the Committee concluded hearing in the matter

Findings of the Committee

4. At the outset, it was noted that the Respondent had registered the company of the Complainant and filed the Income Tax returns of three of his family members. It was noted that the Respondent was alleged for neither returning the DSC of the client nor filing ADT-3 on the MCA Portal after his resignation as auditor of the Company.
- 4.1 It was noted that the Respondent in his defense submitted that the Complainant had not paid his professional fees of Rs. 8,000/-. He had asked the Complainant to collect his belongings and that he had no intention of holding back the DSC of the Complainant and not filing ADT-3 on the MCA Portal. The Respondent also submitted that he was mentally harassed by the Complainant with abusive language and continuous threat to file complaint with ICAI. In order to demonstrate that there was no consequence of any action taken or not taken by him on the Complainant, he stated he had resigned from the Company on 4th November 2020 due to which casual vacancy had occurred in the office of the auditor of the Company which had to be filled within 3 months. From the MCA database, as per him, it was derived that the Company had filed their annual returns and appointed the new auditor in the Casual Vacancy for the financial year 2020-21 for which Rs. 5,000/- were paid as the audit fees as mentioned in the financials of the Company. It was also contended that the first AGM of the Company was held on or before 31st December



2021 to approve the financials of for the financial year 2020-21 and appointed the auditor for the financial year 2021-22 which indicated that non-filing of ADT-3 had not created any hindrances in completion of the Annual filings for the financial year 2020-21.

- 4.2 The Complainant in his rejoinder reiterated his submissions that the Respondent had not returned his DSC and had not filed ADT-3 on the MCA portal till date. That the invoice dated 24th September 2020 of Rs.8,000/- was a fake invoice (D-3) and was produced only for the purpose of submission to the Institute. As per him, the actual agreed amount was less than or equal to Rs. 5,000/- (C-6), accordingly, as per the Complainant the invoice produced by the Respondent was not the truthful evidence.
5. As regard the allegation of retention of DSC with the Respondent, the Committee noted that the Respondent had asked the Complainant to collect the DSC when his email dated November 4, 2020 state as follows: -

"You can collect the above items from the below mentioned address:

*Unit no. 1, Ground Floor,
Goel Estate, NPA Colony,
Hyderabad- 500052*

We also request you to clear all our pending dues of Rs. 8,500/- before you send your person to collect the same."

It was noted that the Respondent had requested the Complainant to clear the dues and to send a person to collect the DSC. The Committee sought clarification from the Complainant if he had ever tried to obtain his DSC by sending somebody to the Respondent's stated place to which the Complainant remained silent. Accordingly, it was noted that the Complainant had not made any efforts to collect the DSC. The Committee opined that it was the responsibility of the Complainant to collect his belongings. The Committee noted from the email that the intention of the Respondent was not to keep the DSC of the Directors in his custody. He had simply requested the Complainant to clear his dues and collect the DSC from him. The Committee in this regard warned the Respondent to be cautious in future while making such statements. Thus, the Committee was of the opinion that the Respondent was **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (1) of Part- II of Second schedule to the Chartered Accountants Act, 1949.

- 5.1 As regards the allegation of non-filing of ADT-3 by the Respondent, the Committee noted that the Respondent had resigned from the post of the auditor of the Company on 4th November 2023 (C-12) and that the Complainant had accepted the same (C-11). The Committee noted

that Section 140 of the Companies Act, 2013 read with Rule 8 of the Companies (Audit & Auditors) Rules, 2014 state as under: -

"Section 140 - Removal, resignation of auditor and giving of special notice

...

(2) The auditor who has resigned from the company shall file within a period of thirty days from the date of resignation, a statement in the prescribed form with the company and the Registrar, and in case of companies referred to in sub-section (5) of section 139, the auditor shall also file such statement with the Comptroller and Auditor-General of India, indicating the reasons and other facts as may be relevant with regard to his resignation."

Rule 8 of Companies (Audit & Auditors) Rules, 2014 - Resignation of auditor

For the purposes of sub-section (2) of section 140, when an auditor has resigned from the company, he shall file a statement in Form ADT-3."

From the above, it was noted that as per Sec 140(2) of the Companies Act, 2013, a resigning auditor of the Company was under an obligation to submit the reasons of resignations vide Form ADT-3 within thirty days of the date of resignation. It was noted that the Respondent had resigned on 4th November 2020, hence he was under an obligation to file ADT 3 within stipulated time. However, he never submitted the same. Instead, he argued that the Company had proceeded to appoint another auditor hence there was no consequence of not filing ADT 3 on his part. The Committee viewed that certain inbuilt checks had been made under various requirements under the Companies Act which were mandatorily required to be complied with. An auditor has been assigned a responsibility to inform the Registrar of Companies both at the time of agreeing to become the auditor as well as at the time of resigning from the same which should duly be complied by him. It was noted that by not filing ADT-3, the Respondent had violated the provisions of the Companies Act, 2013 which was unbecoming of a chartered accountant. Thus, the Committee was of the opinion that the Respondent was GUILTY of Other Misconduct falling within the meaning of Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

6. In light of the above, it was viewed that the Respondent had contravened the provisions of the Companies Act, 2013 by not filing ADT-3 on the MCA portal. 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 'Other Misconduct' falling within the meaning of Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.



Conclusion

7. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is GUILTY of Other Misconduct falling within the meaning of Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949

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

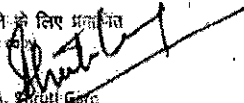
Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

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

Sd/-
[CA.Piyush S Chhajed]
Member

Date: 3rd October, 2023
Place: New Delhi

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सीएम अनीता कपूर / CA. Anita Kapur
सहायक निदेशक / Assistant Director
अनुशासनात्मक विदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स
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Shah: