



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

[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/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

In the matter of:

CA. Sunil Johri (M. No. 074654) in Re:

110, 1st Floor,
Walfort Ozone,
Fafadih Chowk,
Raipur – 492001.

.....Respondent

Members Present:-

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

Mrs. Rani S. Nair, IRS (Retd.), Government Nominee (in person)

Shri Arun Kumar, IAS (Retd.), Government Nominee (through VC)

CA. Sanjay Kumar Agarwal, Member (in person)

Date of Hearing: 29th August 2024

Date of Order: 26th September 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. Sunil Johri (M.No.074654)** (hereinafter referred to as the "**Respondent**") is **GUILTY** of Professional Misconduct falling within the meaning of Item (5), (6), (7) and (8) 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 an opportunity of being heard in person / through video conferencing and to make representation before the Committee on 10th April 2024.
3. The Committee noted that on the date of the hearing held on 10th April 2024, the Respondent was present through video conferencing. The Committee noted that the Respondent relied upon his written representation dated 1st April 2024 on the Findings of the Committee. Further, in his verbal representation before it, the Respondent stated that he had filed a Writ petition before the Hon'ble Chhattisgarh High Court in the context of the instant case which had been disposed off on 9th April 2024. However, the copy of the detailed Order had not yet been received by him.



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

4. Thus, looking into the fact that the Writ petition bearing no. WPC no. 2009 of 2024 filed by the Respondent on the ground of applicability of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 before the Hon'ble Chhattisgarh High Court had been disposed of on 9th April 2024, the Committee decided to defer the consideration of the instant case till the receipt of the Order passed by the Hon'ble High Court of Chhattisgarh, Bilaspur in the said petition.
5. Thereafter, at its meeting held on 15th July 2024, the Committee noted that the Hon'ble High Court of Chhattisgarh, Bilaspur disposed of the aforesaid petition vide its ex-parte Order dated 9th April 2024 with the following observations:

"4. Given the facts and circumstances of the case in hand, without commenting anything on the merits of the case, it is observed and held that the petitioner cannot be compelled to submit the documents referred to above. At this stage, the present petition is disposed of with a direction to the Disciplinary Committee i.e. Respondent No. 3 to not compel the petitioner to submit the aforesaid documents. The petitioner would be at liberty to make appropriate representation showing his inability to file those documents."

- 5.1 The Committee noted that the issue involved was with respect to applicability of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 in respect of which the plea of the Respondent had already been denied by the Board of Discipline at its meeting held on 14th March 2017. The grounds of denial were also communicated to the Respondent.
- 5.2 Thus, the Committee on a detailed perusal of the documents on record was of the view that the Committee has already arrived at its Findings holding the Respondent guilty of Professional Misconduct and there is no provision under the Chartered Accountants Act 1949 and the Rules framed thereunder to review/revise the decision arrived at by the Disciplinary Committee. Further, the conduct of the Respondent was examined by the Committee on the merits of the case i.e. the conduct of the Respondent was examined by the Committee vis-à-vis the discrepancies in the Financial Statement with respect to non-compliance with Accounting Standards/disclosure requirements which were not pointed out by him while carrying out the audit of the Company for F.Y. 2007-08 and not on the basis of non-availability of working papers. Also, the Respondent admitted his mistake with respect to the second and the third charge during the hearing held on 13th December 2023.
- 5.3 However, keeping in view the principle of natural justice, the Committee decided to give another opportunity to be heard to the Respondent under Rule 19(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 before passing any Order under Section 21B (3) of the Chartered Accountants Act 1949.
6. Accordingly, a communication dated 7th August 2024 was addressed to the Respondent thereby granting another opportunity of being heard in person / through video conferencing and to make representation before the Committee on 29th August 2024.



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

7. The Committee noted that on the date of the hearing held on 29th August 2024, the Respondent was present through video conferencing. The Committee noted that the Respondent relied upon his written submission dated 27th August 2024 on the Findings of the Committee. Further in his verbal representation before it, he stated that he had filed Writ Petition before Hon'ble High Court of Chhattisgarh vide Writ Petition No. 16688/2024 on 24th August 2024 wherein, he also made an application to grant him interim relief in the instant matter by way of staying the operation and effect of the impugned Notice dated 7th August 2024 and proceedings arising and continuing thereto.
8. Further, on the merits of the case, he referred to the disciplinary case filed against CA. P. Sivarajan (M. No. 200652) who was the other joint auditor of the alleged company i.e M/s Southern Ispat Limited for the financial year 2007-08. He informed that the areas to be covered during the audit were predefined in the scope of work for joint audit vide the joint agreement dated 30th November 2007. The charges levelled against him fall within the scope of the work of other joint auditor. Thus, the responsibility for the same cannot be attributed to him. Though being joint auditor, he was also responsible for his work. He requested the Committee to take a lenient view in the case as he is having 30 years of unblemished career.
9. The Committee also noted that the Respondent in his written representations on the Findings of the Committee, inter-alia, stated as under:
 - a. The Respondent requested to keep the matter in abeyance and not to proceed further till the Decision of the High Court in the Writ Petition filed in respect of the Notice dated 07th August 2024.
 - b. The Disciplinary Committee has the powers to review/revise the decision of "being Guilty" arrived at earlier by the Committee, under Section 21B (3).---(Words "and may thereafter"). In case the Findings of being "Guilty" are not to be reviewed then the hearing under Section 21B (3) would be only for granting punishment, and that too without allowing an Authorized Representative to argue, which seems to be not right. This may mean "Contempt" of the High Court Order dated 09/04/2024.
 - c. There is no provision under Rule 19(1) or under Section 21B(3) to give hearing again on 29/08/2024 (in case it is only for granting punishment) when already once the hearing was given on 10/04/2024 under the same Rule and the Section.
 - d. Documents, working papers and evidence are required not only for defending the charges where the Disciplinary Authorities have specifically referred to the non-availability of the same but for all the other Charges also in order to prove/justify the stand mentioned by the Respondent in his defence. Therefore, the non-availability of the working papers would justify not entertaining the "Information case" under the relevant Rule 12.
 - e. On one hand, the BOD decided vide letter dated 21/06/2017 not to entertain the request of the Respondent for invoking power under Rule 12 and refuse to entertain the Information, by opining that the discrepancies pointed out in the financial statements are basically with respect to non-compliance with accounting standards/disclosure requirements and can be addressed on the perusal of the



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

financial statements. While on other hand, the Disciplinary Directorate asked the Respondent to supply working papers and other reference records vide their letter dated 23/11/2017.

- f. The Director(Discipline) sought further audit evidence in respect of the following charges:

Charge no. 3 - There is nothing on record to verb the claim of the Respondent about the actual method used by the Company to value the inventory as the 'Tally' software often offers various methods to calculate inventory.

Charge no. 3A - The Respondent has not been diligent while performing his audit procedure of valuation of inventory and also failed to disclose this material misstatement known to him to appear in the Financials of the Company.

Charge no. 5 - The Respondent has neither produced on record the Certificate of the management in relation with valuation of inventory nor did he produce any relevant working papers to substantiate his defence. The complaint extends beyond the scope of financial statements alone.

Moreover, the outstanding charges for which the Respondent is deemed guilty will also necessitate supplementary audit working papers and evidence. Consequently, the Respondent requested the discontinuation of proceedings related to these charges due to the requisite submission of additional evidence.

- g. Disciplinary Committee wrongly held the Respondent Guilty for Charges Numbers 1 and 2 (directly) and for Charge 4 and 7 (indirectly) for not submitting the working paper file when the Disciplinary Committee itself had decided that there was no need for papers and the proceedings are not affected by time limit of 7 years prescribed in Rule 12.
- h. The areas covered by alleged Charges clearly were allocated to the Joint Auditor for the purpose of the audit and the work areas attributed to the Respondent did not cover the work areas covered by the said charges.
- i. The composition of the Disciplinary Committee which originally recorded opinion that the Respondent is guilty has itself changed w.e.f February 2024 and therefore the present composition of the Disciplinary Committee is not authorized to proceed further as per the plain and grammatical interpretation of Section 21B. Even otherwise and without prejudice, on account of change of the constitution of the Disciplinary Committee, it would be appropriate and in the interest of natural justice and fairness that the new Committee considers the matter afresh in light of the Order of the Hon'ble High Court.

10. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional Misconduct vis-à-vis written and verbal representation of the Respondent. Before deciding on the quantum of punishment to be awarded to the Respondent, the Committee considered the representation of the Respondent and opined as under:



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

- a) As regard the submission of the Respondent that since there has been a change in the composition of the Committee, fresh hearing is required in the case, the Committee keeping in view the following observations of the **Honorable Appellate Authority in para 8 of its Order dated 14th June 2021 passed in Appeal no. OS/ICAI/2020 in the matter of Devki Nandan Gupta –vs- ICAI and others** on the same issue was of the view that there is no merit in the contention of the Respondent:

"We find no substance in the appellant's plea that due to change in the composition of DC who had passed the order dated 08.02.2018 the new DC with changed members could not have passed the final order dated 07.11.2019....."

We are of the view that no prejudice whatsoever was caused to the appellant due to change in the composition of the DC who had held him guilty of 'professional misconduct' under Clause 7 of Part – I of the Second Schedule and the one who had finally awarded punishment vide order dated 07.11.2019. In fact, the changed DC was not expected or required to hear arguments afresh on merits to find if the appellant was guilty of 'professional misconduct'. The said findings had already been recorded by the previous DC in its order dated 08.02.2019 and attained finality qua the changed DC. The changed DC was required only to hear the appellant on the quantum of punishment/penalty and for that, the appellant was afforded reasonable opportunity of being heard."

- b) As regard the request of the Respondent to keep the matter in abeyance and not to proceed further till the Decision of the High Court, the Committee perused the copy of Writ Petition No. 16688/2024 dated 24th August 2024 filed before the Hon'ble High Court of Chhattisgarh and noted that the Respondent, inter-alia, sought the following reliefs in the said writ petition:
- quash and set aside the Impugned Notice dated 07.08.2024 and proceedings arising and continuing thereto.
 - quash and set aside the Impugned Findings dated 07.02.2024.
 - quash the Impugned Information Letter dated 04.10.2016.
 - quashing the letter dated 21.06.2017.
 - quash the Impugned Opinion dated 16.09.2021 and Letter dated 14.02.2022.

On perusal, the Committee is of the view that the Honorable High Court of Chhattisgarh has not estopped the Disciplinary Committee from continuing with its proceedings in the case under consideration before it and as on date there was no stay on giving effect to the Committee's Findings dated 7th February 2024.

- c) Further, the Committee had already arrived at its Findings in terms of the provisions of Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and keeping in view the principle of natural justice, another opportunity of being heard was provided to the Respondent on 29th August 2024 under Section 21(B)(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



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

Cases) Rules, 2007 before passing any Order against him which has been availed by him.

- d) As regard comparing the instant case with an earlier decided case of the other Joint auditor, the Committee is of the view that though there was division of the work between the Joint Auditors as per the requirements of Paragraph 5 of SA 299 - Responsibility of Joint Auditors, yet both the auditors are jointly and severally liable for expressing their True and fair view on the financial statements of the Company. Further, the said plea of the Respondent had already been considered by the Committee while arriving at its Findings (Para 19 of the Findings).
- e) The Committee further noted that as per the letter dated 30th November 2007 addressed by the Respondent to the other Joint Auditor as regard the division of work in the context of the audit under question, 'Preparation and finalization of Independent Auditor's Report and final reporting' was to be carried out both by the Respondent and the other Joint auditor. The Committee also noted that out of 7 charges alleged against the Respondent, he had been held guilty in respect of the same primarily on the following basis:

S.no.	Charge alleged	Basis on which the Respondent held guilty
1.	Non-disclosure of Cash Inflow on sale of fixed assets and Cash Outflow on purchase of fixed assets separately as per the requirements of Paragraph 21 of AS 3.	Non-compliance of AS -3 - Cash Flow Statements
2.	Inventories valued at 'Average' Cost formula which is not permissible under AS 2.	Non-compliance of AS -2 - Valuation of Inventories
3.	Depreciation not forming part of valuation of finished goods.	Non-compliance of AS -2 - Valuation of Inventories
4.	Inventories mentioned "as certified and valued by the Management"	Guidance Note on Audit of Inventories and on materiality basis
5.	Details of value and quantity of such trading goods purchased and sold were not disclosed as per the requirements of Paragraph 4A, 4B, 4C and 4D of Part II of Schedule VI of Companies Act, 1956.	Non-compliance with requirements of Clause 3(i)(a) of Part II of Schedule VI of the Companies Act 1956 and on materiality basis
6.	Depreciation of Rs.67.17 Lakhs includes the depreciation of Rs.36.825 Lakhs pertaining to previous financial year 2006-07 while the reason for the same had not been disclosed.	Non-compliance of AS 5 - Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies
7.	Non-compliance of requirements of AS 26, Intangible Assets as Deferred Revenue Expenditure of Rs.2,16,480/- shown in Balance Sheet under 'Miscellaneous Expenditure'.	Non-compliance of AS - 26-Intangible Assets



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

Thus, the Committee was of the view that the reporting of the alleged irregularities was well within the work domain of the Respondent.

- f) The Committee also noted that the Respondent admitted his mistake with respect to the second and the third charge during the hearing held on 13th December 2023.

11. Thus, keeping in view the facts and circumstances of the case, material on record including verbal and written representations on the Findings, the Committee noted as under:

- (a) First Charge: The Respondent argued in terms of net cash flow whereas non-compliance had been raised for gross amounts involved. Hence, the contention of the Respondent as to non-materiality of the amount in this charge was not found acceptable. Moreover, neither any profit nor any loss has been reported to have occurred on the sale of fixed assets in the Profit and loss Account and as such effectively, there was omission of entire related information from the financial statements. The Committee, accordingly, noted that omission of such information was not only an omission of material information from the financial statements but also it led to non-compliance of AS 3 which should have been reported by the Respondent in his audit report.
- (b) Second Charge: The Respondent in his defence had mentioned that inventory was valued on Weighted Average basis only and there was only a typographic error in writing the word 'Weighted' in the Significant Accounting Policies. Whenever an auditor states in his report that the financial statements were in compliance with Accounting Standards referred to in Section 211 (3C) of the Companies Act, 1956, it is his responsibility to verify the documents. In any case, the Respondent had accepted an error in respect of the same.
- (c) Third Charge: The depreciation amount was Rs. 27.48 lakhs and the Company had earned profit after tax of Rs. 2.70 lakhs, hence, the exclusion of depreciation in valuation of inventory had a material effect. Further, The Respondent at hearing stage accepted that there was lapse on his part of not adding depreciation in the cost. It was viewed that whenever an auditor state in his report that the financial statements were in compliance with accounting standards referred in Section 211 (3C) of the Companies Act, 1956, it was his responsibility to verify the documents accordingly.
- (d) Fourth Charge: The Respondent failed to bring forth the circumstances due to which he felt that compliance with the Guidance Note on Audit of Inventories was not necessary. Further, it was noted that out of total Balance Sheet size of Rs 14 crores (approx), inventory worth Rs 6.7 crores (approx.) was quite material and thus, the approach adopted by the Respondent is not acceptable.
- (e) Fifth Charge: The plea of the Respondent that disclosure of quantitative details was impracticable cannot be accepted considering the material nature of transactions held in trading goods being 31.6% of total sales and Services and 32% of total manufacturing expenses and also that cost records mandate maintenance of such records.



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PPR/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

- (f) Sixth Charge: Neither the fact whether it was a change in estimate/ depreciation method or any error giving rise to a 'prior period item' was disclosed nor was it disclosed in the Profit and Loss A/c but in Notes to Accounts. The amount involved relating to the previous year constituted more than 50% of total depreciation charged during the current financial year and thus it was material adjustment in the context of 'Profit After Tax' (PAT).
- (g) Seventh Charge: The Committee, on perusal of the Opinion of Expert Advisory Committee viewed that the said Opinion was purely based on the requirements of Accounting Standard 26 which was mandatorily applicable on the Company. Accordingly, it was viewed that since the expenses incurred to increase authorised capital did not give rise to any resource controlled by the entity and such increase in authorised capital did not ensure inflow of cash until or unless share capital was issued against it. Accordingly, the plea of Respondent was not found acceptable.

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

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

13. Thus, the Committee ordered that CA. Sunil Johri (M.no. 074654), Raipur be Reprimanded under Section 21B (3)(a) of the Chartered Accountants Act 1949.

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

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

सीए संजय कुमार अग्रवाल / CA. Sanjay Kumar Agarwal

डिप्टी/असिस्टेंट डायरेक्टर

डिप्टी/असिस्टेंट डायरेक्टोरेट

आय.सी.ए.ए. ऑफ इंडिया

Institute of Chartered Accountants of India

एड्रेस: 110032, दिल्ली-110032

Address: 110032, Delhi-110032

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/P/254F/2016-DD/118/INF/2016/DC/1531/2022]

In the matter of:

CA. Sunil Johri (M. No. 074654)
110, 1st Floor,
Wallfort Ozone,
Fafadih Chowk,
Raipur - 492001

.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)
Mrs. Rani S. Nair, I.R.S. (Retd.), Government Nominee (Present in person)
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
CA. Sanjay Kumar Agarwal, Member (Present in person)
CA. Sridhar Muppala, Member (Present in person)

DATE OF FINAL HEARING : 13.12.2023 (through physical/video conferencing mode)

PARTIES PRESENT

Counsel for Respondent: CA. Ankit Maheshwari (Through Video Conferencing Mode)

BACKGROUND OF THE CASE: -

1. The brief background of the case is that Financial Reporting and Review Board of the ICAI (hereinafter referred as "**the Board/FRRB**") had informed vide letter dated 4th October, 2016 about various non-compliances observed in General Purpose Financial Statements with regard to AS 2,AS 3,AS 5,AS 13,AS 15,AS 26,Guidance Note on Audit of Capital and Reserves, SA 700,CARO 2003 and Schedule VI of the Companies Act,1956 of **M/s Southern Ispat Limited**(hereinafter referred to as "**Company**") for **financial year 2007-08** audited jointly by CA. Sunil Johri of M/s Sunil Johri and Associates, Raipur(hereinafter referred to as "**Respondent**" and "**Respondent Firm**" respectively).
2. On overall examination of observation/charges of the Board, the matter has been decided to be treated as "Information" within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules,2007(hereinafter referred to as 'Rules').
3. The Respondent submitted that the proceedings against him should be dropped under Rule 12 of Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, as the matter belongs to period more than 8 years ago because the matter relates to financial statements certified by him pertaining to FY 2007-08.He further informed that due to shifting of his office, the old records had suffered and he was unable to trace the details, relevant documents and working papers in the matter. Hence, he prayed for dropping the proceedings against him invoking the power of Rule 12.
4. In view of the above, the said matter was placed before the Board of Discipline for its consideration in terms of the provisions of Rule 12 in its 76th meeting held on 14th March, 2017 which was rejected by Board. The plea under Rule 12 was rejected on the ground that discrepancies pointed out in the financial statements are with respect to non-compliance with Accounting

Standards/disclosure requirements and could be addressed on perusal of financial statements.

5. Hence, in view of the above decision, the Director (Discipline) was proceed further under Rule 8 (3) and advised to submit his Written Statement.
6. The Disciplinary Committee while considering the facts at various stages also noted that there are proper evidences to proceed on the case, hence, it was decided to consider the case.

CHARGES IN BRIEF:-

7. The Committee noted that various instances of professional misconduct were highlighted which were as under:

S. No.	Allegations	View of Director (Discipline)
1.	Disclosure of interest received and interest expenses in Cash Flow Statement	Held Not Guilty
2.	Non-disclosure of Cash Inflow on sale of fixed assets and Cash Outflow on purchase of fixed assets separately as per the requirements of Paragraph 21 of AS 3	Held Guilty
3.	Inventories valued at 'Average' Cost formula which is not permissible under AS 2.	Held Guilty
3A.	Depreciation not forming part of valuation of finished goods.	Held Guilty
4.	Disclosure of 'Share warrant Application Money' under the head of Share Capital instead of showing as a separate head between 'Share Capital' and 'Reserve and Surplus'.	Held Not Guilty
5.	Inventories mentioned "as certified and valued by the Management"	Held Guilty

6.	Details of value and quantity of such trading goods purchased and sold were not disclosed as per the requirements of Paragraph 4A, 4B, 4C and 4D of Part II of Schedule VI of Companies Act, 1956.	Held Guilty
7.	Audit fees of Rs.42,500/- shown in Schedule P of Profit and Loss A/c with nomenclature "Audit Fee/Internal Audit Fees" was paid to the auditors working in different capacities as the same should be disclosed separately as per the requirements of Paragraph 4B of Part II, Schedule VI to the Companies Act, 1956.	Held Not Guilty
8.	Non-compliance of SA 700	Held Not Guilty
9.	The company did not have an internal audit system in place and the company did not maintain cost records under Section 209 (1) (d) of the Companies Act, 1956 but has not reported the same either in thick type or italics as required under Section 227(3)(e) of the Act.	Held Not Guilty
10.	Depreciation of Rs.67.17 Lakhs includes the depreciation of Rs.36.825 Lakhs pertaining to previous financial year 2006-07 while the reason for the same had not been disclosed.	Held Guilty
11.	Non-disclosure of nature and purpose of provisions of Rs.1,13,03,120.30/-	Held Not Guilty
12.	Non-compliance of requirements of AS 26, Intangible Assets as Deferred Revenue Expenditure of Rs.2,16,480/- shown in Balance Sheet under 'Miscellaneous Expenditure'	Held Guilty
13.	Contradiction of reporting in main auditor report and clause reported in CARO, 2003.	Held Not Guilty
14.	No bifurcation of Cash and Bank Balances as per requirement of Schedule VI to the Companies Act, 1956.	Held Not Guilty

15.	Non-classification of Investment as Long term or Short term as per the requirements of Paragraph 26 of AS 13.	Held Not Guilty
16.	Non-disclosure of corresponding previous year figures in the Fixed Assets Schedule which is not as per the General Instructions for preparation of Balance Sheet given under Part I, Schedule VI to the Companies Act, 1956.	Held Not Guilty
17.	Non-disclosure of nature of Other Current Assets	Held Not Guilty
18.	The Audit Report was signed by the Respondent in such a manner that gives an impression that it had been signed by the Respondent by and on behalf of the Board of Directors which was not in line with the requirements of SA 700	Held Not Guilty
19	No bifurcation of Repairs and Maintenance expenditure under the sub head 'Other Expense' which is not in line with the requirements of Schedule VI of the Companies Act, 1956.	Held Not Guilty

8. The Committee noted that the Respondent at the stage of PFO had inter-alia mentioned as under:

8.1 That the Respondent w.r.t **allegation 2** above wherein he was held Guilty had submitted that the amount involved was only 0.15% of total fixed assets of the company and hence, not material. Further, he has referred to Para 4.3 of the "Preface to the Statement of Accounting Standards" (revised in 2004) issued by ICAI which states that Accounting Standards required to be followed to prepare books of accounts are intended to apply only to the items which are material and has a vital bearing on the books of accounts. He also stated that such net disclosure of Sale and purchase of fixed assets in Cash Flow Statement does not affect the true and fair view of the Financial Statements.

- 8.2 That the Respondent w.r.t **allegation 3** above wherein he had been held Guilty had submitted that the inventory was actually valued on Weighted Average basis only as the accounting was carried out by management on 'Tally' software where inventories are valued at moving average which is same as the weighted average basis and there was only a typographic error in writing the word "Weighted" in the Significant Accounting Policies. Further, if the company had not stated 'Weighted average cost', it had neither used the word 'Simple' Average cost. With the available records and information the formula used by the Company has been stated to have reflected fairest possible approximation to the cost incurred in bringing the items of inventory to their present location and condition.
- 8.3 That the Respondent w.r.t **allegation 3A** above wherein he had been held guilty had submitted that it was consistently done on the basis of Net Realisable Value or Cost whichever is lower. In the instant case, the Net Realisable value was lower than cost. Further, since this method was followed consistently, the same was not specifically mentioned in the Audit Report.
- 8.4 That the Respondent w.r.t **allegation 5** above wherein he had been held Guilty had submitted that he along with his fellow Joint Auditor sufficiently verified the inventory through intensive audit procedures and vouching and they suggested the management not to omit the words "as certified and valued by the management" due to considerable usage of estimation involved in such process. He further stated that in his Audit Report, it was stated that the reliance was placed on the management estimations and valuations and they performed relevant audit procedures while conducting the audit of inventory. He also submitted that the Guidance note is recommendatory in nature and such disclosure does not have any adverse impact.
- 8.5 That the Respondent w.r.t **allegation 6** above wherein he had been held Guilty had submitted that the company had different types of inventory in hand during the period. However, the quantities of different type of inventories which were being traded were measured in terms of Nos., Kgs, tons, milligrams etc. but because of diversified nature of such inventory, it was impracticable for the Company and the Respondent to disclose the

quantitative details in the financials. He further stated that the company duly reported the total amount in respect of opening and closing stocks, purchases, sales and consumption of raw material with its corresponding value and quantitative breakup of manufactured goods. Further, he stated that even if there was noncompliance in relation to the disclosure requirement as alleged then also he and his fellow joint auditor were of the view that the same was not material enough to report in their Audit Report and also it did not affect the true and fair view of financial statements.

8.6 That the Respondent w.r.t **allegation 10** above wherein he had been held Guilty had admitted that it was a prior period item and he had not erred in disclosing such prior period item as the amount of Rs.67,16,567.75 was shown as Depreciation in Profit and Loss A/c and further, Schedule E — Fixed Assets an amount of Rs.30,34,115 was shown as depreciation for the period. Then, the disclosure was given in Note-17 of Schedule R and further, it was also disclosed in Annexure I of Audit Report. It was stated that from all such disclosures, it was evident that the depreciation in relation to prior period item was clearly disclosed and technicalities of AS-5 were duly complied with.

8.7 That the Respondent w.r.t **allegation 12** above wherein he had been held Guilty had submitted that auditee company never intended to show such expenditure as part of its fixed assets or current assets and such expenses were incurred to increase authorised capital which was in the nature of share expenses and hence, AS 26 was not applicable on such expenditure and hence, attention was not drawn to this fact in the Audit Report signed by the Joint Auditor.

9. The Director (Discipline) had in his Prima Facie Opinion held the Respondent prima facie **Guilty** on following allegations:

a. **First Charge (S. No. 2 of the Table) relating to non-disclosure of Cash Inflow on sale of fixed assets and cash outflow on purchase of fixed assets separately:**

1. The Director (Discipline) in the prima-facie opinion observed that it was worth to weigh the materiality in view of gross cash flows

involved in sale and purchase of total fixed assets in comparison with the 'Cash flows from Investing Activities'.

2. On perusal of 'Cash flows from Investing Activities' in the Cash Flow Statement for the financial year 2007-08, it was noted that the entire cash flow under this sub head was from sale and purchase of fixed assets only and not from any other source, therefore, the amount of sale and purchase of fixed assets becomes material. Hence, the contention of the Respondent as to non-materiality of the amount in this charge cannot be accepted.
3. Besides, it was also noted that omission of such information is not only an omission of material information from the financial statements but also it leads to deviation from the requirements of the standard. Moreover, it was noted that neither any profit nor any loss has been reported to have occurred on such sale of fixed assets in Profit and Loss Account.
4. As such effectively, there was omission of entire related information from the financial statements. Hence, it appeared that the Respondent had been grossly negligent in performing his duties and also failed to report the material misstatement appearing in the financials. Therefore, the Respondent was held prima facie **Guilty** on this charge for professional misconduct falling within the meaning of Items (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

- b. Second Charge (S. No. 3 of the Table) relating to Inventories was valued on the basis of 'Average' cost formula : The Director (Discipline) in the prima-facie opinion observed that there was nothing on record to verify the claim of the Respondent about the actual method used by the Company to value the inventory as the 'Tally' software often offers various methods to calculate inventory. Further, it was also viewed that deviation of policy adopted for valuation of inventory which was not permissible under AS 2 cannot be said to have immaterial effect on true and fair view of the financial affairs of the Company. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie **GUILTY** on this charge

for 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.

c. **Third Charge (S. No. 3A of the Table) relating to depreciation not forming part of valuation of finished goods :**

1. The Director (Discipline) in the prima-facie opinion noted from Para 6 and 8 of AS 2 which clearly mentions that the depreciation being the fixed production overhead incurred in converting materials into finished goods should be included while calculating cost of finished goods.
2. Further, the company had charged the depreciation for the financial year 2007-08 amounting Rs 67.17 Lakhs which includes depreciation amounting Rs 36.82 Lakhs pertaining to the year 2006-07 and the amount of depreciation of Rs.67.17 Lakhs appears to be material being 10% of total Inventory.
3. Further, it was also observed that adoption of a cost formula excluding depreciation leads to undervaluation of inventory. The Respondent in respect of this charge was silent in his Written Statement as to why the depreciation was not included in the cost of the Inventory while applying the formula for valuation of inventories.
4. Hence, it was reasonable to be inferred that the Respondent was not diligent while performing his audit procedure of valuation of inventory and also failed to disclose this material misstatement known to him to appear in the Financials of the Company making him prima facie **Guilty** on this charge for professional misconduct falling within the meaning of Items (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

d. **Fourth Charge (S. No. 5 of the Table) relating to 'Inventories' mentioned "as certified and valued by the Management"**: The Director (Discipline) in the prima-facie opinion observed that the Respondent had not addressed the observation of the Board directly by providing the reason of usage of such expression. Furthermore, the Respondent had also neither produced on record the certificate of the management in relation with valuation of inventory nor did

he produce any relevant working papers to substantiate his defence. It was noted that out of total Balance Sheet size of Rs 14 crores (approx.), inventory constitutes Rs 6.7 crores (approx.). Hence, casual approach of the Respondent could not be accepted. Thus, the Respondent was held prima facie **Guilty** on this charge of Professional Misconduct falling within the meaning of Items (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

e. **Fifth Charge (S. No. 6 of the Table) relating to details of value and quantity of trading goods purchased and sold not disclosed as per the requirements of Paragraph 4A, 4B, 4C and 4D of Part II of Schedule VI of Companies Act, 1956:**

1. The Director (Discipline) in the Prima-facie Opinion noted that pursuant to the requirements of Clause 3 (i) (a) of Part II of Schedule VI to the Companies Act, 1956, the following information pertaining to turnover is also required to be disclosed in financial statements:

"(i) (a) The turnover, that is, the aggregate amount for which sales are effected by the company, giving the amount of sales in respect of each class of goods dealt with by the company, and indicating the quantities of such sales for each class separately."

2. It was observed that quantitative disclosure of trading goods is a mandatory requirement under the Companies Act, 1956 which was not disclosed in Notes to Accounts. The plea of the Respondent that disclosure of quantitative details was impracticable could not be accepted considering the material nature of transactions held in trading goods being 31.8% of total Sales and Services and 32% of total manufacturing expenses and also that cost records mandate maintenance of such records.
3. Thus, it was viewed that requirements of Part II, Schedule VI to Companies Act, 1956 has not been complied with and Respondent has not drawn attention to this fact in his auditor's report. Thus, the Respondent was held prima facie **Guilty** on this charge of Professional Misconduct falling within the

meaning of Items (5) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

f. **Sixth Charge (S. No 10 of the Table) relating to depreciation of Rs. 67.17 lakhs included the depreciation of Rs. 36.825 lakhs pertaining to the year 2006-07 while the reason of the same had not been disclosed:-** The Director (Discipline) in the Prima-facie Opinion noted that neither the fact that whether it was a change in estimate/ depreciation method or any error giving rise to a 'prior period items' was disclosed nor was it disclosed in the Profit and Loss A/c but in Notes to Accounts. It was also observed that the amount involved constitutes more than 50% of total depreciation charged during the financial year; it was material adjustment in the context of 'Profit After Tax' (PAT). Accordingly, non-disclosure of such adjustment with a meaningful reason for such adjustment on the face of PandL A/c made the Respondent *prima facie* **Guilty** of professional misconduct falling within the meaning of Items (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

g. **Seventh Charge (S. No 12 of the Table) relating to Deferred Revenue Expenditure of Rs. 2,16,480/- shown in Balance Sheet under the Head 'Miscellaneous Expenditure' which did not meet the definition of assets as given in AS 26, Intangible Assets** : The Director (Discipline) in the Prima-facie Opinion noted that Expert Advisory Committee (EAC) issued opinion on the matter in Query No.28, Opinion finalised by the Committee on 22.01.2014 and 23.01.2014 (33rd Volume, Pg.308) which explicitly states that such expenses does not give rise to any resource controlled by the entity. Such increase in Authorised Capital does not ensure inflow of cash until or unless share capital is issued against it. Therefore, the expenditure incurred by the company towards increase in authorised share capital cannot be considered as share issue expenses and should be treated as expense and charged off in the Statement of Profit and Loss. Accordingly, the plea of Respondent could not be accepted. Hence, the Respondent was held *prima facie* **Guilty** of professional misconduct falling within the meaning of Items (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

10. Accordingly, the Director (Discipline) held the Respondent Prima Facie **Guilty** of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said items to the Schedule to the Act, states as under:

Items (5), (6),(7) and (8) 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 mis-statement 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."*
- (8) *fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;*

Respondent's Submission on Prima Facie Opinion

11. The Respondents had made submissions dated 5th March 2022 in response to Prima Facie Opinion. The gist of those submissions are as under:
- a. The Respondent humbly submits that SA 299 provides for responsibility of joint auditors and specifies that in respect of audit work divided among the joint auditors, each joint auditor is responsible only for the work allocated to him.
 - b. On perusal of the above division of work, it was evident that the Respondent was responsible for:
 - i. Preparation of Tax Audit Report,
 - ii. Checking of Direct Tax, Indirect Tax and PF/ESI related compliances

- iii. Checking of Bank and Loan Statements and
 - iv. Test of Internal Controls.
- c. In light of the above bifurcation of work between the joint auditors, it was humbly submitted that none of the charges alleged on the Respondent in the Prima Facie Opinion was related to scope of work of the Respondent as charges alleged in the Prima Facie Opinion are related to:
- i. Checking of Preparation of Financial Statements i.e. Balance Sheet, Profit and Loss and Cash Flow Statement: Charge No. 2, 12
 - ii. Inventory Valuation: Charge No. 3, 3A, 5, 6
 - iii. Checking of Depreciation: Charge No. 10
- d. Based on the above, it was evident that the charges alleged on the Respondent were not related to the scope of work divided between the joint auditors with respect to the Respondent. Therefore, in light of SA 299, it was humbly submitted that the Respondent cannot be held Guilty of any charge which does not relate to the scope of work divided between the joint auditors with respect to the Respondent. Hence, the charges alleged on the Respondent deserves to be dropped based on this ground only.
- e. Charges are not maintainable as the Respondent has duly complied with applicable standards as per report of peer reviewer.
- f. With respect to Charge no. 2, it was submitted that the main objective of AS-3 is satisfied and disclosure was made considering the materiality level in the case of auditee. Further, there is no omission from the financial statements.
- g. With respect to Charge no. 3, it was evident that there is no diversion in valuation as the same is done as per the accounting principles.
- h. With respect to Charge no. 5, it was evident that the issue related to guidance note which are recommendatory in nature and such disclosure does not have any adverse impact on the financial statements. That on similar basis charge no. 1, 4 and 8 in PFO has been dropped.
- i. With respect to Charge no. 6, there was sufficient reason of not disclosing the quantities however the total value has been duly reported which establishes that there is no material misstatement which can make the Respondent grossly negligent.

- j. With respect to Charge no. 10, that the omission of depreciation in earlier year was done by the auditor of that year and not the Respondent, instead the said omission is rectified in the current year by proper adjustment in Profit and Loss Account and disclosures in the notes.
- k. With respect to Charge no. 12, AS-26 is not applicable in the present case and the disclosure of deferred revenue expenditure under miscellaneous expenditure is as per Schedule VI only, which was first done in the year 2006-07 when the Respondent was not the auditor.
- l. Proceeding is in violation of Rule 12 of CA Rules and charges alleged are not related to the scope of work as per SA 299.
- m. Charges alleged do not involve any material non-disclosure or material misstatements and are mostly being regarded as clerical errors and none of the charges are of the nature that proves gross negligence of the Respondent.
- n. Charges alleged on the Respondent have not impaired the true and fair view of the financial statements. Out of 19 charges, 13 have been dropped which proves beyond doubt that charges are clerical in nature.

BRIEF FACTS OF THE PROCEEDINGS:

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

S.No.	Date	Status of Hearing
1.	19.09.2022	Part Heard and Adjourned
2.	28.11.2023	Part Heard and Adjourned
3.	13.12.2023	Heard and Concluded.

13. On the day of the first hearing, held on 19th September, 2022, the Committee noted that the Respondent was present with his Counsel CA. Shashi Kant Barve through video conferencing mode. The Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges levelled against him. The Committee

looking into the fact that the matter was placed for hearing for first time, decided to adjourn the matter to future date.

14. The Committee noted that the Respondent vide letter dated 22nd November, 2023 has submitted summary of all charges which are as under:-

i. **In response to the first charge (S. No. 2 of above table)**, the Respondent submitted that the specific format of the cash flow has not been provided in any of the authoritative guidance issued by ICAI. Further, said disclosure does not constitute any material misstatement in the financial statements of the entity, hence, the question of professional misconduct does not arise. Again, the division of work clearly mentions that checking of preparation of financial statements i.e. balance sheet, profit and loss and cash flow statement is within the purview of the joint auditor so the Respondent shall not be held guilty for the same.

ii. **In response to the second charge (S. No. 3 of above table)**, the Respondent submitted that the responsibility of execution of the inventories was that of the Joint Auditors and not that of the Respondent. The DD ICAI has not considered that fact that even AS 2 uses the word "average" in context of how the valuation of inventory has to be carried out. It also must be noted that the "Tally Software" comes with the functionality of valuing inventory either at FIFO basis or Weighted Average Cost basis. The same has to be selected by the Management. Hence, the question that the inventory would have been valued with any other method other than specified in AS — 2 does not arise.

iii. **In response to the third charge (S. No. 3A of above table)**, the Respondent submitted that from the division of work between the joint auditors, it is amply clear that the responsibility of execution of the inventories was that of the Joint Auditors and not that of the Respondent. Hence, the conclusion of the DD ICAI, with regards to the responsibility of the Respondent on the said financial caption is totally invalid and bad in law.

iv. **In response to the fourth charge (S. No. 5 of above table)**, the Respondent submitted that the responsibility of the execution of the audit of inventory was of the joint auditors and not the Respondent. Hence, the DD ICAI cannot hold the Respondent guilty of professional misconduct on an act performed by some other person.

- v. **In response to the fifth charge (S. No. 6 of above table)**, it is submitted that the Company has duly reported the total amounts in respect of opening and closing stocks, purchases, sales and consumption of raw materials with its corresponding value and quantitative break up of manufactured goods. Therefore, as per clause 3 (ii) (d) of Part II, Schedule VI of the Companies Act, 1956, it is evident that disclosure of the same in the financial statements of the Auditee will be cogitated that the Respondent has sufficiently complied with the requirements of Part II, Schedule VI to Companies Act.
- vi. **In response to the sixth charge (S. No. 10 of above table)**, the Respondent submitted that the audit report was appropriately modified because the depreciation was not charged in the books of account. Further, attention is also drawn to Notes of the financial statements wherein it is clearly mentioned that the depreciation of the previous year has been charged during the period.
- vii. **In response to the seventh charge (S. No. 12 of above table)**, the Respondent stated that the EAC which is referred by the DD ICAI has been only given by the ICAI in year 2014, while the financial statements were attested in FY 2008. Hence, the opinion which was issued by ICAI cannot be applied in the present circumstances. It must be noted that the accounting treatment given by the Company and as audited by the Respondent is in line with the practice prevailing in the FY 2008.
15. On the day of the second hearing held on 28th November 2023, the Committee noted the Counsel for the Respondent CA. Ankit Maheshwari was present through Video conferencing mode. The Respondent Counsel presented his line of defence inter-alia, stating that:
- a. That the audit in this case was conducted by Joint Auditors.
 - b. There were 19 instances alleged by FRRB.
 - c. Out of these 19 instances, the Director (Discipline) held the Respondent guilty on 6 charges.
 - d. These 6 charges are coming in the domain of the Joint Auditor.
- 15.1 Thereafter, the Committee gave directions to the Respondent to submit within 10 days the following documents:
- a. Submit a chart mentioning:

- (i) Para number of Prima-facie Opinion.
- (ii) Charge and Charge number in the Prima-facie Opinion.
- (iii) Whether that charge relates to the Respondent or Joint auditor.

b. Further points for consideration by the Committee.

The Committee, thereafter, adjourned the case to a further date for a detailed hearing. With this, the hearing in the matter was partly heard and adjourned.

16. The Respondent vide email dated 11th December, 2023 submitted a chart containing the details as directed by the Committee. He also submitted that the charges for which he had been held accountable were under the purview of the joint auditor and the joint auditor had already been found Guilty of these charges and has been reprimanded.
17. On the day of the final hearing held on 13th December, 2023, the Committee noted that the CA. Ankit Maheshwari Counsel for the Respondent was present through Video Conferencing Mode. The Committee noted that Counsel for the Respondent presented his line of defense, inter-alia, mentioning that the information letter was given in 2016 whereas the matter relates to financial year 2007-08. The audit of the Company was conducted by the joint auditors and certain charges levelled against the Respondent pertain to another joint auditor. He, thereafter, submitted in his defense, in detail, on the charges levelled against the Respondent.
 - 17.1 The Respondent had submitted an affidavit on the joint agreement as entered between the Respondent and the Joint auditor vide email dated 20th December, 2023.
 - 17.2 Thereafter, the Committee, looking into the Respondent's submissions proceeded in accordance with the provisions of Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of cases) Rules, 2007. After considering all papers available on record and after detailed deliberations and recording the submissions, the Committee decided to conclude the hearing in the instant case and decided to hold the Respondent, CA. Sunil Johri (M.No. 074654), Raipur, Guilty of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

FINDINGS OF THE COMMITTEE

18. The Committee noted that the said Company i.e. M/s Southern Ispat Limited for financial year 2007-08 was audited jointly by CA. Sunil Johri of M/s Sunil Johri and Associates, and P SivaRajan of M/s Mahadevan and Sivarajan. The Committee also noted the submission of the Respondent that the areas to be covered during the audit were predefined in the scope of work for joint audit vide the joint agreement dated 30th November 2007. The Committee further noted that the Respondent is taking a plea that the charges levelled against him falls within work area of other joint auditor and accordingly the responsibility of the same cannot be attributed to him.
19. As regards the above, the Committee noted that Paragraph 5 of SA 299, Responsibility of Joint Auditors requires as follows:

"5. ...On the Other hand, all the Joint auditors are jointly and severally responsible for:

...

d. for examining that the financial statements of the entity comply with the requirements of the relevant statute;

e. for ensuring that audit report complies with the requirements of the relevant statute."

In view of the above-mentioned requirements, it was noted that both the auditors are jointly and severally responsible for the presentation and disclosure requirements of the financial statements though there was division of the work between them. Hence, the plea of the Respondent is rejected that the charges fall under the purview of the other auditor. Moreover, it is pertinent to mention that the impact of the misstatement as mentioned in various charges, if considered in aggregation, is material and impacts the decision of the user of the financial statements.

20. The Committee accordingly noted the following charges as given hereunder: -

FIRST CHARGE BY DIRECTOR (DISCIPLINE)

21. The Committee noted that **the first charge** relates to non- disclosure of Cash Inflow on sale of fixed assets and Cash Outflow on purchase of fixed assets separately which as per the requirements of paragraph 21 of AS 3 should have been disclosed separately on gross basis in the Cash Flow Statement. It was stated that only net Cash flows on sale and purchase of fixed assets have been reported in the Cash Flow Statement for Financial Year 2007-08.

21.1 The Committee noted that the Respondent at the stage of hearing had mentioned that he has not retained any working papers relating to audit. So, he failed to give any specific details regarding sale, purchase transaction of fixed assets. The Committee also noted that the Respondent had taken plea that present charge pertains to work which was responsibility of other joint auditor. The Committee further noted that the Respondent in this regard had submitted that the amount involved was only 0.15% of total fixed assets of the company and hence was not material.

21.2 The Committee further noted that in the extant matter, only net cash flow on sale and purchase of fixed assets was reported in the cash flow statement for financial year 2007-08. In other words, gross cash flows pertaining to purchase and sale of fixed assets were not shown in the Cash Flow Statement. The Committee, however, on perusal of 'Cash flows from Investing Activities' in the Cash Flow Statement for the financial year 2007-08, noted that the entire cash flow under this sub head was from sale and purchase of fixed assets only and not from any other source, therefore, the amount of sale and purchase of fixed assets was found to be material.

21.3 Further, it was viewed that the Respondent had again argued in terms of net cash flow whereas; the non-compliance had been raised for gross amounts involved. Hence, the contention of the Respondent as to non-materiality of the amount in this charge was not found acceptable. Moreover, neither any profit nor any loss

has been reported to have occurred on such sale of fixed assets in Profit and loss Account and as such effectively, there was omission of entire related information from the financial statements. The Committee, accordingly, noted that omission of such information was not only an omission of material information from the financial statements but also it led to non-compliance of AS 3 which should have been reported by the Respondent in his audit report. Accordingly, the Committee is of the considered opinion that the Respondent is held **Guilty** of this charge for professional misconduct falling within the meaning of Items (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

SECOND CHARGE BY DIRECTOR (DISCIPLINE)

22. The Committee noted that second charge was related to the significant accounting policies of the Company related to inventories which mentioned that value of Inventory of Raw Material was based on 'Average Cost Basis' whereas, AS 2 prescribes to adopt either FIFO or 'Weighted Average' cost formula to determine the value of inventories. Thus, it was alleged that inventories valued on the basis of 'Average' cost formula was not permissible under AS 2 and the Respondent had failed to report about the same in his Audit Report.

22.1 The Committee noted that the Respondent in his defence had mentioned that inventory was valued on Weighted Average basis only and there was only a typographic error in writing the word 'Weighted' in the Significant Accounting Policies. The Respondent had also mentioned that he had not retained the working papers. Accordingly, contention of the Respondent cannot be proved that weighted average method was adopted by the Company.

22.2 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee is of view that the plea of the Respondent, that the valuation methodology followed during the previous years was followed, could not be accepted. It was viewed that whenever an auditor state in his report that the financial statements were in compliance with Accounting Standards referred in Section 211 (3C) of the Companies Act, 1956, it is his responsibility to verify the

documents, accordingly. In any case, the Respondent had accepted an error in respect of the same. Accordingly, the Committee is of the considered opinion that the Respondent is held **Guilty** of professional misconduct falling within the meaning of Items (5), (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

THIRD CHARGE BY DIRECTOR (DISCIPLINE)

23. With respect to **third charge**, the Committee noted that it has been stated that the company, in its accounting policy, has provided for valuation of Finished Goods inventory at the cost of raw material consumed and direct cost related to production *excluding depreciation* whereas AS 2 requires depreciation should form part in the valuation of inventory. Accordingly, it was alleged that the Respondent had failed to report non-compliance of AS 2 in his Audit Report.
- 23.1 The Committee noted that the Respondent had stated that valuation of finished goods was consistently done on the basis of 'Net Realisable Value or Cost' whichever is lower and Net Realisable value was lower than cost. Further, since this method was followed consistently, the same was not specifically mentioned in the audit report. The Committee further noted that the Respondent had also submitted that valuation of finished goods was done on NRV so even if depreciation was added it would not had any impact on financials. The Respondent at hearing stage accepted that there was lapse on part of the Respondent of not adding depreciation in the cost.
- 23.2 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that although such type of error neither affects the true and fair view nor affects the decision making of any user of the financial statements of the Company, however, there should be compliance of Accounting Standard and it brings transparency and accountability in the audited financial statements. Although, the checking of Inventory and its valuation was under the domain of the other joint auditor but it is ultimate responsibility of both joint

auditors. Hence, the Respondent as an auditor should have pointed out deviation of Accounting Standards, Companies Act etc.

23.3 The depreciation amount was Rs. 27.48 lakhs and Company had earned profit after tax of Rs. 2.70 lakhs, hence, the exclusion of depreciation in valuation of inventory had a material effect. Further, it was viewed that whenever an auditor state in his report that the financial statements were in compliance with accounting standards referred in Section 211 (3C) of the Companies Act, 1956, it was his responsibility to verify the documents accordingly. Therefore, the defence of the Respondent for non-inclusion of depreciation in value of inventory for not being material was not found acceptable. Accordingly, the Respondent is held **Guilty** of professional misconduct falling within the meaning of items (5), (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

FOURTH CHARGE BY DIRECTOR (DISCIPLINE)

24. The Committee noted that **fourth charge** is that under the head Inventories, it was mentioned-"Inventories as certified and valued by the Management" whereas in terms of Guidance Note on Audit of Inventories, the usage of such expression might lead the users of the financial statements to believe that the Auditor had merely relied on the Management Certificate without carrying out any appropriate audit procedures to satisfy him about the existence and valuation of inventories. Thus, it was alleged against the Respondent that he had not complied with the requirements of Guidance Note.

24.1 The Committee noted that the Respondent submitted that he along with his fellow Joint Auditor had sufficiently verified the inventory through intensive audit procedures and vouching and they suggested the management not to omit the words 'as certified and valued by the management' due to considerable usage of estimation involved in such process. He had also mentioned that the referred Guidance Node on Audit of Inventories is recommendatory in nature and such disclosure does not have any adverse impact while reviewing financials.

24.2 The Committee noted that Guidance Note clearly states that the auditor should adopt sufficient audit procedure to verify the inventories. Further, it also noted Announcement of the Council relating to "Clarification regarding Authority Attached to Documents Issued by the Institute" which describe the authority of Guidance Note as follows:

*"5. 'Guidance Notes' are primarily designed to provide guidance to members on matters which may arise in the course of their professional work and on which they may desire assistance in resolving issues which may pose difficulty. Guidance Notes are recommendatory in nature. **A member should ordinarily follow recommendations in a guidance note relating to an auditing matter except where he is satisfied that in the circumstances of the case, it may not be necessary to do so.** Similarly, while discharging his attest function, a member should examine whether the recommendations in a guidance note relating to an accounting matter have been followed or not. If the same have not been followed, the member should consider whether keeping in view the circumstances of the case, a disclosure in his report is necessary (**emphasis added**).*

24.3 In view of the above, it was noted that the Respondent in the extant case had failed to bring forth the circumstances due to which he felt that compliance of Guidance Note was not necessary. Further, it was noted that out of total Balance Sheet size of Rs 14 crores (approx) , inventory worth Rs 6.7 crores (approx.) which was quite material and thus, the approach adopted by Respondent is not acceptable. Accordingly, the Committee is of the considered opinion that the Respondent is held **Guilty** of professional misconduct falling within the meaning of Items (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

FIFTH CHARGE BY DIRECTOR (DISCIPLINE)

25. The Committee noted that **fifth charge** relates to that the Respondent being an Auditor had failed to report in his Audit Report the fact of non-disclosure of

quantities of trading goods purchased and sold separately as per the requirements of Part II of Schedule VI of Companies Act, 1956.

- 25.1 The Committee noted that the Respondent had submitted that the Company had different types of inventory in hand during the period and due to diversified nature of such inventory, it was impracticable for the Company and the Respondent to disclose the quantitative details in the financials. The Respondent further submitted that primarily the Company was involved in manufacturing activities and quantity of the manufactured goods and all compliances of manufactured goods was done. The Committee also noted that the Respondent had submitted that 6600 items were traded so quantitative details were not taken into account for.
- 25.2 It was, accordingly, noted by the Committee that quantitative disclosure of trading goods was a mandatory requirement of Clause 3 (i) (a) of Part II of Schedule VI under the Companies Act, 1956 which was not complied with. It was viewed that mandate requirements have been designed to provide necessary information to the stakeholders concerned and hence its omission could not be regarded as only presentation error.
- 25.3 It was noted that the Respondent had failed to report about the said non-compliance in his audit report. Further, the plea of the Respondent that disclosure of quantitative details was impracticable cannot be accepted considering the material nature of transactions held in trading goods being 31.6% of total sales and Services and 32% of total manufacturing expenses and also that cost records mandate maintenance of such records.
- 25.4 Accordingly, the Committee is of the considered opinion that the Respondent is held **Guilty** of professional misconduct falling within the meaning of Items (5) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

SIXTH CHARGE BY DIRECTOR (DISCIPLINE)

26. The Committee noted that the **sixth charge** is that arrears of depreciation was charged in the current year depreciation while the reason for the same had not been disclosed and as per the requirements of AS 5, it should have been

disclosed separately on the face of Profit and Loss account as prior period items. Thus, it was alleged that requirements of AS 5 were not complied with which the Respondent had failed to report in his audit report.

26.1 The Committee noted from the Paragraph 15 of AS 5, Net Profit or loss for the Period, Prior Period Items and Changes in Accounting Policies which states as follows:

“15. The nature and amount of prior period items should be separately disclosed in the statement of profit and loss in a manner that their impact on the current profit or loss can be perceived. (Emphasis added)”

26.2 From the above mentioned requirements, the Committee noted that the Accounting Standard 5 clearly requires to disclose the impact of prior period items in such a manner that its impact can be clearly perceived to users of the financial statements. Accordingly, it is observed that clubbing depreciation of 36.82 lakhs pertaining to previous year in total amount of expenses for the current year understates the *Profit* for current year.

26.3 The Committee noted that the Respondent had admitted that it was a prior period item and necessary disclosures were made. The Respondent had submitted that bifurcation of depreciation pertaining to current year and prior year was given in Fixed Assets Schedule. The Committee is of the view that merely giving separate disclosure does not meet the requirements of AS 5.

26.4 The Committee, however, on perusal of documents on records, noted that neither the fact whether it was a change in estimate/ depreciation method or any error giving rise to a 'prior period item' was disclosed nor was it disclosed in the Profit and Loss A/c but in Notes to Accounts. It further noted that amount involved relating to previous year constituted more than 50% of total depreciation charged during current financial year and thus it was material adjustment in the context of 'Profit After Tax' (PAT). Accordingly, in view of the fact that disclosure of such adjustment with a meaningful reason for such adjustment on the face of Profit and Loss Account was not made, therefore, the Respondent is held **Guilty** of

professional misconduct falling within the meaning of Items (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

SEVENTH CHARGE BY DIRECTOR (DISCIPLINE)

27. The Committee noted that the **seventh and last charge** is that the requirements of AS 26 – 'Intangible Assets' were not complied with as Deferred Revenue Expenditure was capitalised in Balance Sheet which the Respondent being the statutory auditor failed to report the same in his audit report.

27.1 The Committee noted that the Respondent had submitted that AS 26 is not applicable on such expenditure as auditee Company never intended to show such expenditure as part of its fixed assets or current assets and such expenses were incurred to increase authorised capital which was in the nature of share expenses and hence, AS 26 was not applicable on such expenditure and hence, attention was not drawn to this fact in the Audit Report.

27.2 The Committee, however, on perusal of the said Opinion of Expert Advisory Committee viewed that the said Opinion was purely based on the requirements of Accounting Standard 26 which was mandatorily applicable on the Company. Accordingly, it was viewed that since the expenses incurred to increase authorised capital did not give rise to any resource controlled by the entity and such increase in authorised capital did not ensure inflow of cash until or unless share capital was issued against it. Accordingly, the plea of Respondent was not found acceptable and the Committee is of the considered opinion that the Respondent is held **Guilty** of professional misconduct falling within the meaning of Items (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

27.3 It was further observed that almost all the observations were defended by taking the plea of materiality and area of work of Joint Auditor, which signifies the casual approach adopted by the Respondent while performing audit of the Company. It was viewed that an audit is regarded to be conducted to ensure compliance with

financial reporting framework applicable on the enterprise, hence, in extant case, compliance with the requirements of Schedule VI to the Companies Act, 1956 as well as applicable accounting standards was required to be followed. Hence, if an auditor states in his audit report that financial statements have been prepared in accordance with applicable financial reporting framework and that it complies with the Accounting Standards referred in Section 211(3C) of the Companies Act, 1956, then non-compliance of the same is not acceptable.

CONCLUSION

28. In view of the above findings stated in the above paragraphs vis-à-vis material on record, the Committee, in its considered opinion, holds the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5),(6),(7) and (8) 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

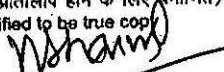
SD/-
(SHRI ARUN KUMAR, I.A.S. RETD)
GOVERNMENT NOMINEE

SD/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

SD/-
(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 07th FEBRUARY, 2024
PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए समाहित /
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, Shahdra, Delhi-110032