



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR/PI/177/18-DD/201/18/DC/1489/2021

[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

[PR/PI/177/18-DD/201/18/DC/1489/2021]

In the matter of:

**Mr. Neeraj Sharma,
Sr. Vice President,
National Spot Exchange Limited (NSEL),
6th Floor, Chintamani Plaza,
Andheri Kurla Road, Andheri (East),
Mumbai – 400 069.**

... Complainant

Versus

**CA. Gaurav Kumar Bedi (M.No.402858)
M/s Arora Bedi and Associates (FRN 012153C),
Chartered Accountants,
Govind Nagar, Near Ram Shyam Mandir
Saharanpur, Uttar Pradesh – 247 001.**

... Respondent

Members Present:-

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

Date of Hearing: 10th April 2024

Date of Order: 30th 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. Gaurav Kumar Bedi (M.No.402858)** (hereinafter referred to as the "Respondent") is **GUILTY** of Professional Misconduct falling within the meaning of Item (6), (7) and (8) of Part I and Item (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.
2. That pursuant to the said Findings, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting opportunity of being heard in person / through video conferencing and to make representation before the Committee on 10th April 2024.



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3. The Committee noted that on the date of the hearing held on 10th April 2024, the Respondent was present in person and made his verbal representation on the Findings of the Disciplinary Committee, inter-alia, stating that the Company is not working right now but his client is connected with him. He had 20 years of unblemished professional career and that he had already suffered for 6 years. Thus, he requested the Committee to take a lenient view in the case. The Committee also noted that the Respondent in his written representation on the Findings of the Committee, inter-alia, stated as under:
- (i) With respect to the first charge: -
- Evidence to substantiate missing sales of Rs 31.04 Crores in the name of M/s Suvaity Trading Company Pvt. Ltd. (STCPL) is disputed.
 - Alleged transactions of Rs 31.04 crores are disputed and not accepted by M/s. Shree Radhey Trading Company (SRTC) as sales of M/s Suvaity Trading Company Pvt. Ltd. ('STCPL').
 - It is apparent that the Complainant on the one hand has not been able to establish the figure of Rs 31.04 crores as sales of M/s Suvaity Trading Company Pvt. Ltd. (STCPL) through M/s. Shree Radhey Trading Company (SRTC) and on the other hand, denied and did not accept the figure of Rs. 45.60 Crores reflected as Sales in the Financial Statements without any basis.
 - The Respondent referred to the decision of the Disciplinary Committee in a similar complaint filed by the same Complainant against CA. PSC Nageswara Rao alleging that during the financial year 2013-14, SSPL (auditee company) failed to reflect transactions in the financial statements that it had allegedly traded in aggregate Rs.135.43 Crores turnover being Rs.77.70 Crores as BUY turnover and Rs. 57.73 Crores as SELL turnover on NSEL platform as client of M/s NCS Sugars Ltd (broker member of NSEL). In the said case, the Committee held the Respondent as Not Guilty on the ground that the broker concerned intervened in the matter and had stated that the contentious sales were disputed.
- (ii) With respect to the second charge: -
- Although there is a slight deviation in compliance with the requirement, but the fact remains that the said deviation is not material in nature and at the same time it neither affects the user(s) of the Financial Statements substantially nor vitiates the true and fair view of the Financial Statements.
- (iii) With respect to the third charge: -
- It is correct that the requirements of the Schedule VI to the Companies Act, 1956 was mandatorily required to be followed by the Company while preparing its financial statements for the Financial Year 2013-14 but it is a fact that the observations are technical in nature and there is no material effect on the financial statements so as to affect its "true and fair view".
4. Keeping in view the facts and circumstances of the case, material on record and representation of the Respondent before it, the Committee decided to reserve the decision on the quantum of punishment to be awarded to the Respondent in the instant case.



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5. Thereafter, the Committee at its meeting held on 15th July 2024, 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. As regard the submission of the Respondent regarding comparing the instant case with an earlier decided case, the Committee is of the view that comparing two distinct disciplinary cases as 'eye to eye', is not warranted as each case is decided on merits on the basis of documents and submissions on record. After due consideration of all the facts, submissions and documents on record, the Committee arrived at its Findings holding the Respondent guilty in respect of the charges alleged against him in Form 'I'. The Committee also noted that the Respondent admitted his mistake with respect to the second and the third charge during the hearing as well as in his written submissions.
6. 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:
- (i) **First Charge:** The Complainant brought on record an e-mail dated 8th July 2013 from the director of the auditee Company to NSEL wherein the said director had mentioned M/s Suvaity Trading Company Pvt. Ltd.(STCPL) as client of M/s. Shree Radhey Trading Co. (SRTC) with client id STC. Thus, the said fact clearly shows that the auditee Company had made the transactions through NSEL. Further, the Respondent was involved in filing all tax returns and Tax Audit of the Company and accordingly, he had access to all the documents / records of the Company. Furthermore, the Respondent failed to bring on record sufficient evidence on record to show that he had taken proper steps to verify the genuineness and accuracy of the purchase and sales in view of the aforementioned circumstances. Hence, the contention of the Respondent that there had been nothing on record to find out about the sale transactions that took place through NSEL platform was not acceptable and tenable. Despite the circumstances as prevailed at the time of audit requiring the auditor to apply extra checks and audit procedures, the Respondent did not bother to apply appropriate and extra audit procedures to check the genuineness and completeness of the sale transactions made by the Company during the financial year 2013-14. Moreover, the non-compliance of the requirements of Accounting Standards (AS 9) was clearly visible on the face of the Financial Statements and unsigned Notes to Accounts.
- (ii) **Second Charge:** As per Section 227(4A) of the Companies Act, 1956 requiring an auditor to include a Statement specified by the Central Government under this section, the Respondent was required to include a Statement on the matters as specified in Companies (Auditor's Report) Order, 2003 but he failed to include the same and made incorrect reporting by mentioning in his audit report that the Companies (Auditor's Report) Order 2003 was not applicable to the Company. Further, the Respondent on this charge accepted his mistake.
- (iii) **Third charge:** As per Section 227 of the Companies Act, 1956, it was the duty of the auditor to report that whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information as required by the Companies Act in the manner so required and give a true and fair view of the financial statements of the Company. Despite the violation of the mandatory requirements of disclosures as per revised Schedule VI of the Companies



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Act 1956 as pointed out in para 18.1 of the Findings, the Respondent remained silent and did not point out the same in his audit report. Also, the Respondent admitted his mistake in respect of the said charge.

- 6.1 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.
7. Accordingly, the Committee was of the view that ends of justice will be met if punishment is given to the Respondent in commensurate with his professional misconduct.
8. Thus, the Committee ordered that the name of CA. Gaurav Kumar Bedi (M.No. 402858), Saharanpur be removed from the Register of Members for a period of 01(One) Year and also imposed a Fine of Rs. 1,00,000/- (Rupees One Lakh only) upon him payable within a period of 60 days from the date of receipt of the Order. The punishment in the instant case shall run concurrently with the punishment awarded in Case no. PR/PI/178/18-DD/202/18/DC/1488/2021.

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

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

sd/-

(SHRI ARUN KUMAR, IAS RETD.)
GOVERNMENT NOMINEE

sd/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

sd/-

(CA. COTHA S SRINIVAS)
MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

सीए श्रुति गर्ग / CA. Shrutitarg
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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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.: PR/PI/177/18-DD/201/18/DC/1489/2021****In the matter of:****Mr. Neeraj Sharma,
Sr. Vice President,
National Spot Exchange Limited (NSEL),
6th Floor, Chintamani Plaza,
Andheri Kurla Road, Andheri (East),
Mumbai - 400069****.... Complainant****Versus****CA. Gaurav Kumar Bedi (M.No.402858)
M/s Arora Bedi and Associates (FRN 012153C),
Chartered Accountants,
Govind Nagar, Near Ram Shyam Mandir
Saharanpur – 247 001
(Uttar Pradesh)****...Respondent****MEMBERS PRESENT:****CA. Ranjeet Kumar Agarwal, Presiding Officer (Through Video Conferencing Mode),****Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (In person),****Mr. Arun Kumar, I.A.S. (Retd.), Government Nominee (In person)****CA. Sanjay Kumar Agarwal, Member (In person)****DATE OF FINAL HEARING : 28th November 2023****DATE OF DECISION TAKEN : 14th December 2023****PARTIES PRESENT****Complainant: Ms. Shubhra Singh, Authorized Representative
(Through Video Conferencing Mode)****Counsel for Complainant: Mr. S. G. Gokhale, Advocate
(Through Video Conferencing Mode)****Respondent: CA. Gaurav Kumar Bedi (Through Video Conferencing Mode)****Counsel for Respondent: CA. C.V. Sajjan (Through Video Conferencing Mode)**

BACKGROUND OF THE CASE:

1. The brief background of the case is that M/s. Shree Radhey Trading Company' (hereinafter referred to as the "**SRTC**") was a member broker on National Spot Exchange Limited (NSEL) and one among 22 defaulters. The Company, M/s Suvaity Trading Company Pvt. Ltd. (hereinafter referred to as the '**Company/STCPL**') was a client company of SRTC and had traded on NSEL during F.Y. 2013-14 under the Code STC. That the Respondent was the statutory auditor of STCPL for financial year 2013-14 who had failed to carry out its audit properly thereby the audited financial statements of the Company was not giving the true and fair view of the affairs of the Company.

CHARGES IN BRIEF: -

2. The Committee noted that the charges against the Respondent were as under:-
 - a. Non-reporting of sales transactions of Rs. 31.04 crores carried out by STCPL through SRTC on NSEL platform and other incidental expenses which are reported to have not been recorded in the financial statements of STCPL. Further, the Company (STCPL) had failed to apply accounting standards which were not pointed out by the Respondent in his audit report for the financial year 2013-14.
 - b. There was default in reporting under Companies (Auditor's Report) Order 2003. The Complainant alleged that the Respondent did not comply with the requirements of Companies (Auditor's Report) Order, 2003 about reporting on the issue of fraud on the Company or by the Company that took place during the year.
 - c. The Respondent neither qualified the audit report nor drawn attention to the infirmities in the preparation of financial statements of the Company which were not in consonance with the requirements of Schedule III of Companies Act, 2013.

3. The Committee noted that the Respondent in his reply at the stage of PFO had, inter-alia, mentioned as under:
- i. That the management of the Company, STCPL had never disclosed to him that they dealt in commodities through brokers or with NSEL.
 - ii. That the Company presented its accounts to the Respondent for audit as a 'Trading' company involved in agriculture produce in bulk. Further, the records of purchase bills and sales bills were presented to the Respondent as part of regular books of accounts. The details of taxes paid and VAT Returns were also produced before him as evidence.
 - iii. That for the FY 2013-14, sales were made to assorted companies out of the stock purchased. He further stated that the unsold stock amounting to Rs.1.33 crores in the balance sheet was duly certified as subjected to physical verification by the management and found matching with the books of account.
 - iv. That there was no evidence in the records of the Company for any transactions of sales with any NSEL or with any of its brokers as alleged by the Complainant. Audit evidences collected from the Company did not provide any information that the transactions entered into by the Company originated at NSEL platform.
 - v. That only after receipt of the complaint, he got to know about the matter. When he enquired it from the Company, the management of the Company confirmed that there was no proceeding by any authority against their company nor there had been any complaint against them. However, the Respondent had been able to get the information from other sources that M/s. Shree Radhey Trading Company (SRTC) which is alleged as member broker of NSEL, is a group entity of the family of the Company management. The Respondent mentioned that this fact was not known to him at the time of audit.
 - vi. That he had yet to receive a confirmation from the Company that whether the sale transactions of the Company were sourced through NSEL platform with the intermediation of SRTC.
 - vii. That he was unable to comment on whether all or any of the sales of Rs.45.60 crores recorded in the books of accounts of the Company had

any relation with NSEL or its broker SRTC. According to the evidences provided during the audit, NSEL and SRTC were not in picture.

- viii. Since the buyer company being an associate company of the STCPL, it was also not clear why there was any need for intermediation and use of NSEL platform. The Respondent was further not clear as to whether the transactions through NSEL covered by a contract note will have to be backed by additional invoices from supplier to buyer and whether each contract can be matched with a supplier note invoice. Hence, in the absence of any clarity on these points, it was not possible to speculate whether the matter of alleged missing sales of Rs.31.04 crores had any merit or not.
- ix. That since the Complainant had been unable to download the profit and loss account from the MCA website properly, the Complainant assumed that the Company had not declared any purchase or sales in its accounts. The Respondent submitted that he had no reason to accept the proposition that the Company was a client of SRTC.
- x. There was no deficiency in Accounting Policy or Notes to the Accounts of the Company. All the revenues were correctly recognized.
- xi. That he had genuine apprehension that there was a deliberate attempt on the part of the management of the Company to keep certain facts away from him.
- xii. That the Respondent was not provided with any information about the existence of the bank account of the Company with HDFC as alleged by the Complainant.
- xiii. That the extant complaint was not a single enquiry that has been initiated against the auditee company so far.

4. The Director (Discipline), in his Prima Facie Opinion dated 19th June 2020, with respect to the allegations levelled against the Respondent, had observed as under:-

4.1 In respect of first allegation related to non-reporting of transactions and the failure to apply accounting standards, since the huge transactions were taking place without settling accounts of parties, it was not clear why the Respondent

did not enquire about the activities of the Company during his audit. It was also noted that the transactions of sales and purchases were confined to limited identified parties and all the transactions were carried out in April, May and June despite the Company dealing in the essential items like spices and condiments. It is further noted that transactions took place between the Company and NSEL through the broker member SRTC which the management of the auditee Company did not disclose.

- 4.1.1 That HDFC A/c was used as a vehicle to carry out transactions via SRTC on NSEL Platform. A cash deposit of Rs.50 lakh made by Mr. Arun, one of the Directors of the Company was used to pay Rs.50 lakh to M/s. R.S. Nagpal Traders Private Limited in next 2 days. Except this payment, no other payment was either made or received from any other party during the year even though the Company was involved in crores of sales and purchase as evident from the ledger accounts of HDFC, M/s. Ananad Rathi Commodities International Pvt. Ltd, M/s. Harsha Traders and M/s. R.S. Nagpal Traders Private Limited.
- 4.1.2 That there is one more case complaint case no.PR/PI/178/18-DD/202/18 filed by the same complainant against the same Respondent wherein he was statutory auditor for the same financial year i.e.2013-14 of M/s. R.S. Nagpal Traders Private Limited through which the other leg of trading at NSEL platform i.e., 'Purchase' transaction was undertaken by the Company with similar practice involving same parties.
- 4.1.3 That the Respondent was involved in filing all returns of the Company and tax audit, still the Respondent failed to obtain sufficient evidence to find out the nature of transactions actually taking place with the fact that the substantial sales were made to one party, no amount was received against such sales.
- 4.1.4 The Respondent, being auditor chose not to perform audit procedures substantively as prescribed under various Standards of Auditing and did not point out the deviation. Despite all irregularities in the financial statements of

the Company, the Respondent gave a clean report confirming that audited financial statements for FY 2013-14 are giving true and fair view of the state of affairs of the Company. Accordingly, he was held **prima facie guilty** under this charge for professional misconduct falling within the meaning of Items (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

4.1.5 That the annexure relating to the Notes on Accounts of the Company and Note No.14 specifying the significant accounting policies adopted by the Company during the FY 2013-14 had not been signed by either of the signatories to financial statements though the name of the auditor and that of the management were written on it. It is noted that no such document was available in the set of financial statements submitted by the Complainant which was downloaded by him from MCA 21. It creates a significant doubt as to whether the said Notes to Accounts and significant accounting policies were part of the financial statements as submitted on MCA portal by the Company. It appears that the Respondent had submitted the forged documents on records to substantiate his defence making him **prima facie guilty** under Item (3) of Part-II of Second Schedule also for submitting false information / documents to this Directorate.

4.2 With respect to the **second allegation**, on perusal of financial statements of the Company for the FY 2013-14, it was noted that the Companies (Auditor's Report) Order, 2003 was applicable on Company for the FY 2013-14, however, the Respondent in his audit report had stated otherwise. Accordingly, the Respondent was held **prima facie guilty** for this charge of professional misconduct falling within the meaning of Items (7) and (8) of Part - I of the Second Schedule to the Chartered Accountants Act, 1949.

4.3 With respect to the **third allegation** that the financial statements were not in consonance with the requirements of Schedule III to the Companies Act, 2013, it was noted by the Director (Discipline) that Schedule III is defined in Companies Act, 2013 which was applicable w.e.f. 01.04.2014 only and the

financial statement in question relates to the FY 2013-14. Hence, in the extant matter, instead of Schedule III to the Companies Act, 2013, the requirements of Revised Schedule to the Companies Act, 1956 would be applicable. Accordingly, the discrepancies alleged were assessed considering the provisions of Revised Schedule VI to the Companies Act, 1956.

- 4.3.1 It was noted that non-disclosure of various details in respect of various heads appearing in the balance sheet of the Company was in violation to the provisions of Part I of Revised Schedule VI to Companies Act, 1956 which was mandatorily required to be followed by the Companies while preparing the financial statements of relevant financial year. Despite such non-compliances, the Respondent being the Statutory Auditor of the Company failed to report about the same in his audit report. It was further noted that in Opinion paragraph of Audit Report, the Respondent had stated that "*the financial statements give the information required by the Act in the manner so required*" which is in contradiction to the facts as noted. Accordingly, he was held **prima facie guilty** of Professional Misconduct under this charge falling within the meaning of Item (6) and Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

5. Accordingly, the 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, held the Respondent **Prima-facie Guilty** of Professional Misconduct falling within the meaning of Items (6), (7) and (8) of Part I and Item (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949. The said items in the Schedule to the Act states as under:

Item (6) of Part I of Second Schedule:

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he—

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

Item (7) of Part I of Second Schedule:

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

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

Item (8) of Part I of Second Schedule:

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(8): fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion."

Item (3) of Part II of Second Schedule:

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

(3): includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false".

SUBMISSIONS OF THE RESPONDENT ON PRIMA FACIE OPINION:-

6. The Respondent in his submissions dated 6th July 2023 had, inter-alia, submitted as under:-
 - a. That with respect to observations in Para 9.4.3 of the PFO, while reiterating his earlier submissions regarding the factual position at the time of audit, the Respondent stated that it appears that the observation of the Director (Discipline) was influenced by the allegations of the Complainant.

- b. That the documents and records of the Company presented before the Respondent for audit, back in 2014, did not have any indication that the trading of the Company had been through the Commodity Exchange NSEL or through any broker.
- c. That it is very necessary that the documents of trades that are dealt through Commodity Exchanges, are distinguishable from their appearance for easy identification as traded through commodity exchange. In the absence of such features, an auditor would not be able to distinguish the trades through Commodity Exchange and regular direct offline trade.
- d. That the turnover of Rs. 45.59 crores may be inclusive of the turnover alleged to have been carried through broker STC on the NSEL platform. But the Respondent as auditor had no such knowledge, because of the absence of distinction in documentation.
- e. That the opinion of the Director (Discipline) in Para 9.4.4 of PFO that the Respondent had reasons to be suspicious, is misconceived, because the suspicion that arose in the mind of the Director (Discipline) stemmed from his thorough examination of the documents, taking into account the background of the allegations. Further, the observations in the sub-paras of Para 9.4.4 do not provide any hint that they would have helped the Respondent to form any view that the trades were through NSEL platform.
- f. That according to the evidences obtained by the Respondent, the sales recorded in the accounts of the Company were based on invoices that appeared like normal regular Sales invoices. So, the Respondent had rightly understood the nature of the transactions.
- g. That it was not possible to view the matters in the same manner in which the Director (Discipline) had viewed for disposing the complaint. The Respondent viewed those two companies (STCPL and RSNTPL) as just

two trading companies whose purchases and sales were backed by proper records and compliance.

- h. That there were no transactions with NSEL in the records of the company STCPL. As per the Respondent, there was nothing in the records of the Company to show that there were any trades through NSEL.
- i. That observation of the Director (Discipline) in Para 9.4.7 were reflections of premeditation and without any evidence of deficiency in the financial statements.
- j. That with respect to the charge of non-compliance of CARO requirement, the Respondent regretfully and apologetically submitted that he committed an unintentional error in this case. However, he had not observed any fraud in the extant matter.
- k. With respect to the charge related to the failure to draw attention to the infirmities in the presentation of the financial statements which were not in consonance with the requirement of Schedule VI (Revised) to the Companies Act, the Respondent stated that those were technical errors and unintended omission, for which he may be pardoned. The Respondent also stated that the omission was an oversight of the management which the Respondent did not pay attention to, but they did not constitute material misstatements at all. Therefore, the charge that there was violation of reporting obligation under section 227 in the instant case was without any merit.
- l. That there was no case of issuing any qualified audit report under SA-705 as the financial statements presented the true state of affairs of the Company as reflected in its books of accounts.

BRIEF FACTS OF THE PROCEEDINGS:-

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

S.No.	Date	Status of Hearing
1.	31.10.2022	Adjourned at the request of Respondent
2.	22.06.2023	Part Heard and Adjourned
3.	11.07.2023	Part Heard and Adjourned
4.	23.08.2023	Part Heard and Adjourned
5.	17.10.2023	Deferred due to paucity of time
6.	31.10.2023	Deferred due to paucity of time and on the request of both the parties.
7.	28.11.2023	Concluded and Judgment Reserved
8.	14.12.2023	Final decision taken in the case.

8. On the day of first hearing held on 31st October 2022, the Committee noted that the Complainant was not present, and the Respondent vide his e-mail dated 18.10.2022 had sought adjournment on account of the last date of filing Income Tax Returns for audit cases and company cases under the Income Tax Act, 1961. Considering the absence of the Complainant, the Committee acceded to the request of the Respondent and decided to adjourn the matter to a future date.
9. On the day of second hearing held on 22nd June 2023, the Committee noted that Ms. Shubhra Singh, Legal head of the Company, was present on behalf of the Complainant Company through Video Conferencing Mode. The Respondent along with his counsel, CA. C.V. Sajan was present through Video Conferencing Mode. Both parties, i.e., the Complainant and the Respondent were 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. When the Respondent sought time to file his submissions in the matter, the Committee allowed the Respondent to file the same within 15 days of hearing. Thereafter, looking into the fact that this was the first effective hearing, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard and adjourned.

10. On the day of third hearing held on 11th July 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, alongwith Counsel Mr. S.G. Gokhale, Advocate, was present on behalf of the Complainant through Video Conferencing mode. The Respondent, alongwith Counsel CA. C.V. Sajan, was present through Video Conferencing mode. Thereafter, the Committee asked the Respondent to make his submissions.

10.1 The Respondent in his submissions had, inter-alia, mentioned as under:-

- a. That he could not understand as to why NSEL had chosen July transactions, particularly 857 transactions and reported the same.
- b. That the Complainant was alleging that the turnover of Rs.31.04 crores is missing, however, the turnover of STCPL was around 46 crores.
- c. That the Complainant was engaged in malicious activities, attempting to shift the burden of responsibilities to others by alleging that accounts of all the companies were wrong.
- d. That he had done the audit based on the records of the Company produced before him. As per the documents produced before him, he had no reasons to suspect that the alleged transactions were done through the platform of NSEL.
- e. That if he had been aware of the NSEL scam, he would have enquired about it.

- 10.2 The Committee noted that the Respondent in this matter had submitted his further written statement on the date of the meeting i.e., 11th July 2023. The Counsel for the Complainant in this regard sought time for their further reply on the written statement of the Respondent. The Committee acceded to the request of the Complainant's Counsel and directed him to submit submissions to the Committee with a copy of the same to the Respondent. Thereafter, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard and adjourned.
11. On the day of fourth hearing held on 23rd August 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, along with Counsel Mr. S.G. Gokhale, Advocate, were present on behalf of the Complainant through Video Conferencing mode. The Committee further noted that the Respondent along with Counsel CA. C. V. Sajan were present through Video Conferencing mode.
- 11.1 Thereafter, the Respondent was asked to make his submissions. The Respondent in his submissions had, inter-alia, mentioned as under:
- a. That he was little bewildered with the allegation regarding purchase transaction because a third-party who had nothing to do with the Company's balance sheet or PandL account or his audit, is alleging that his books of accounts are incomplete.
 - b. That the Complainant (NSEL) has in its record, certain purchases, which is not in the books of accounts of the Company. Now, NSEL's records are different from the Company's records. He has no access to the NSEL records. He has no idea on which records and balance sheets, NSEL had relied upon.
 - c. That he wanted to cross examine the Complainant to understand as to what exactly their points are.

- 11.2 Thereafter, the Complainant was asked to submit his submissions. The Complainant in his submissions had inter-alia mentioned as under:
- a. That even it is presumed that the Respondent was not aware of transaction with NSEL, still there were several facts appearing on the face of the financial statement that should have arose suspicion in the mind of the Respondent while conducting the audit and he should have performed audit procedure to an extent of obtaining sufficient audit evidence to arrive at an opinion on the financial statement of the Company.
 - b. That it was in the public domain that fraud of Rs.5600 crores was running in the NSEL and the Economic offence wing was taking control over it.
- 11.3 The Committee posed certain questions to both the parties to understand the issue involved and the role of the Respondent in the case. The Counsel for the Respondent submitted that he wanted to examine the Complainant. On the same, the Committee asked him to submit his questionnaire/ queries to the Committee and the Complainant within 15 days of hearing. The Complainant was also directed to make his submissions within 15 days of receipt of the queries/ questionnaires with a copy to the Respondent. With this, the hearing in the matter was partly heard and adjourned.
12. On the day of fifth hearing held on 17th October 2023, the hearing in the matter was deferred due to paucity of time.
13. On the day of sixth hearing held on 31st October 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, alongwith Counsel Mr. S.G. Gokhale, Advocate, were present on behalf of the Complainant Company through Video Conferencing mode. The Respondent's Counsel, CA. C. V. Sajan was present through Video Conferencing mode. The Committee noted that, in accordance with the directions given during the last hearing held on 23.08.2023, the Respondent submitted a questionnaire, and the Complainant provided their response accordingly. The Committee

noted that the questionnaire submitted by the Respondent and the corresponding reply given by the Complainant are as under:-

S.No.	Question	Answer
1.	Have the Complainant filed any complaint against the Auditor of Shree Radhey Trading Co (SRTC), the broker member who was allegedly the defaulter of NSEL according to the complaint?	No complaint was filed before ICAI against Auditor of SRTC. SRTC is the sole proprietorship concern of Mr. Ramesh Nagpal. SRTC indulged into circular trading on the Exchange platform utilising both sister concerns. Their audit reports were scrutinized and hence, complaints were filed against the auditors of these two clients of SRTC.
2.	Does the Complainant have any evidence of seizure of the records of the NSEL by investigating agencies?	It was specifically mentioned in panchnama dated 30 th September 2013 that the document mentioned therein are seized.
3.	Do the Complainant have any evidence to show that STCPL placed orders for the sales of Rs 31.04 crores allegedly made through Trading Member NSEL?	The order was placed by Member only i.e. SRTC by giving the UCC Code of its client. The UCC Code in the instant case was STCPL. In this regard, the Complainant referred to the copy of Trade File derived from the records of NSEL.
4.	What were the goods allegedly sold by STCPL for Rs 31.04 crores which were not accounted for in its books of accounts?	While referring the Annexure 1 as annexed to the complaint, the Complainant submitted that in the column titled "Commodity Contract", abbreviations of goods are given wherein "PPRSRNPR25" stands for "Black Pepper" and "RCHLYS14H2S" stands for "Red Chilly".

5.	Which was the designated warehouse of NSEL in which the alleged inventory pertaining to the alleged sales were obtained in advance by the Trade Member of NSEL, (as the precondition for executing the alleged sales as per Rules of NSEL, as claimed in the complaint)?	The designated warehouse where the commodities were stored was Mr. Krishan Cold Storage and Foods which was under the control of Mr. Ramesh Nagpal and he had confirmed the delivery of the commodities to the said warehouse
6.	What are the details of the Electronic Warehousing Receipt issued for transfer of possession of underlying stock involved in the alleged unrecorded sales of Rs 31.04 Crores?	Delivery Allocation Report/Letter issued to SRTC about the allocation of commodities sold by SRTC (for its client STCPL) was enclosed by the Complainant with his reply. The commodity and quantity details given in the said letter was matching with trade file which was annexed as Annexure 1 with the reply to the Complaint.
7.	Were there any sale or purchase by STCPL through NSEL, before or after, other than the alleged unrecorded sales of Rs 31.04 Crores?	No
8.	Does the Complainant have any evidence about who were the buyers of the alleged unrecorded sales of STCPL of Rs 31.04 crores?	Buyers were the same who were allottees of Delivery Allocation letter as mentioned in answer to question No. 6 above
9.	Were the alleged unrecorded sales by STCPL of Rs 31.04 crore, recognized in the books of accounts of RSTC (Trading	The Complainant stated that the Respondent is not privy to this information.

	Member/ Broker) as payable to STCPL towards sales consideration?	
10.	Does the Complainant have evidence from the accounts of SRTC that the alleged Sales of STCPL Rs 31.04 Crores was reflected as recoverable by SRTC from NSEL?	There was no recovery from NSEL as much as the sale consideration was settled by adjustments.
11.	What are the details of payment received by NSEL from its corresponding buyer and settled with SRTC towards the alleged sales made by STCPL of Rs 31.04 Crores that was unrecorded?	That NSEL received Rs. 31.04 Crores from brokers (in respect of 158 Clients) towards the purchase of commodities sold by SRTC on behalf of STCPL.

- 13.1** During the hearing, the Counsel(s) for both the Complainant and the Respondent requested for adjournment. The Committee, keeping in view the said request and due to time constraints, decided to adjourn the hearing.
- 14.** On the day of seventh and final hearing held on 28th November 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, alongwith Mr. S.G. Gokhale, Advocate, were present on behalf of the Complainant Company through Video Conferencing mode. The Committee further noted that the Respondent along with Counsel CA. C. V. Sajan were present through Video Conferencing mode.
- 14.1** Thereafter, the Complainant was asked to submit his submissions. The Complainant in his submissions had, inter-alia, mentioned as under:
- a. That as per the directions of the Committee, they had given replies to the various questions raised by the Respondent.
 - b. That they had explained the procedures adopted by NSEL with respect to settling transactions.

- c. That a payment crisis had occurred in July 2013 in NSEL, due to which NSEL had appointed authorities to check whether the commodities were physically available in stock or not, and it was found that the stock was not available physically.
- d. That the financial statement does not show expenses commensurate with the amount of the sale and purchase.
- e. That he had submitted his submissions referring to the paras of PFO.
- f. That he had not filed any complaint against the auditor of SRTC since SRTC is a proprietary concern.
- g. That on the date of transaction, the NSEL was regulated by SEBI (earlier regulated by Forward Market Commission which later merged to SEBI).
- h. That they had filed the recovery cases against all the members and got a decree from the Bombay High Court.
- i. That the Respondent had not taken any confirmation from SRTC or enquired about the status of advances to it which was also a default on his part as the SRTC was declared as defaulter as per the circular issued by the NSEL way before 31st March 2014.
- j. Both RSNTPL and STCPL were the group entities of SRTC
- k. They were selling through STCPL which was the sister concern of SRTC and they were buying through RSNTPL that was another sister concern of the same group. This was the modus operandi they were operating under, making it difficult for anyone to determine the presence or absence of stocks.
- l. That in STCPL, purchase was of Rs 46.91 crore and sale was of Rs 45.90 crore, however, there was no transaction except movement of Rs 50 lakhs.

14.2 When the Respondent was asked to make his submissions, he had, inter-alia, submitted as under:-

- a. That although he had accepted his mistake for Charges no. 2 and 3, the said mistake cannot be construed as professional misconduct, accordingly, it should be taken leniently.

- b. That the Respondent admitted that purchases and sales were made with parties and the accounts were not settled but the Company did not honestly present the accounts and the same is a truth but what can an auditor do for that.
- c. That both RSNTPL and STCPL had balance with M/s. Anand Rathi Commodities International Pvt. Ltd. In one Company they bought and in another Company, they sold, and if both the entities are taken together then nothing is payable or receivable.
- d. In such situation, no amount of auditors' scepticism would be able to detect from the accounts that a purchase or sale or expense recorded is not what it is supposed to be in the financial statement .
- e. That what was the proof that STCPL had placed an order with SRTC.
- f. That STCPL had no stock then how they can sell Rs. 31.04 crores of goods.
- g. That if the management of the Company was dishonest then auditor had inherent limitations.
- h. That an affidavit regarding sales and purchase transaction by STCPL was given by the director of the Company to him.
- i. That NSEL was allowed to do one day forward contract and not 25 days contract.

14.3 The Committee posed certain questions to both the parties to understand the issue involved and the role of the Respondent in the case. The Committee noted that the director of the Company had submitted an affidavit wherein he had inter-alia mentioned as under:

- a. That his name is Mr. Surender Nagpal, director of M/s Suvaity Trading Co. Pvt. Ltd (STCPL). That the Company was formed exclusively for the purpose of wholesale trading in assorted commodities and to make profits from the market price fluctuations.
- b. That most of the trading activities of the Company was conducted on NSEL, through a trading member M/s Shree Radhey Trading Company, however, the company management had not disclosed this operating mechanism of its trading activities with the auditor, CA Gaurav Bedi (the

Respondent), as it was not felt an essential information to be shared with the auditor, being a matter of operations.

- c. That there was no difference in documentation of sales and purchases to indicate that whether those sales/ purchases were carried through NSEL or through conventional offline purchase/ sales transactions. Therefore, the auditor would not be able to identify the transactions carried through NSEL platform from the records provided to them.
- d. There were certain disputes between SRTC and NSEL and it is a matter of litigation. However, STCPL is not a party to this dispute, nor the Company had shared this information with the auditor of STCPL. There have been no claims against STCPL by NSEL or any authorities.
- e. The alleged evidence of alleged missing sales of Rs 31.04 crores in the name of STCPL had been disputed by the STCPL and accordingly, the allegation of non-recording of sales is baseless.
- f. That most of the trading members of NSEL disputed the genuineness and validity of transactions claimed to have been recorded in NSEL and disputed the demands raised by NSEL upon them.
- g. The motive of NSEL behind the allegation against the auditors of its clients is to create self-serving evidence through ICAI by obtaining verdicts that the accounts of its clients were wrong, to use them in courts to counter the disputes raised by trading members against NSEL.

14.4 After considering the same, the Committee directed the Complainant to submit his responses to the latest submissions made by the Respondent via the affidavit dated 24th November 2023. On the same, the Complainant's Counsel denied having receipt of the said affidavit. Thereafter, the Committee gave directions to the Respondent to submit a copy of affidavit to the Complainant. The Committee further directed both the parties to submit additional submissions, if any, in next 15 days with copy to each other.

14.5 Thereafter, the Committee, looking into the Respondent's submissions against the charges levelled, recorded his plea and accordingly, concluded the hearing by reserving its judgment.

15. Thereafter, the matter was placed before the Disciplinary Committee in its meeting held on 14th December, 2023 wherein the same members, who heard the case earlier, were present for consideration of the facts and arriving at a decision by the Committee. The Committee noted pursuant to its direction given in the hearing held on 28th November 2023, the Respondent has given his submissions wherein he had, inter-alia, mentioned as under:-
- a. That despite that the errors mentioned in charges regarding the format of revised Schedule VI were apparent, they did not constitute professional misconduct.
 - b. That the error mentioned in as regards applicability of CARO, it was submitted that the said omission was admitted and pleaded that technical omission may be viewed leniently.
 - c. That the accounts of the Company audited by him were complete in all respects with recording of actual purchases, sales, inventory transactions, expenses, bank transactions and so on. The allegation of omitted transactions was baseless because the Company had not transacted any such transactions according to its records, nor had acknowledged so.
 - d. That according to the audited accounts of the Companies i.e., RSNTPL and STCPL, both had recorded sales and purchases representing trading activities for amounts much more than the alleged missing transactions according to its records and had duly complied with the VAT law by filing in their VAT Returns. On what basis the complainant is sure that the alleged transactions were not part of the records.
 - e. The alleged transactions were those which the NSEL claimed as happened but disputed by the Trading Member as having not happened.
 - f. That the net effect of these alleged missing transactions was not material to the overall liability due to the offsetting effect of the purchases and sales.
 - g. There were disputes between NSEL and Member Brokers about transactions in their records created during the closing months of NSEL. So, to present evidence in litigations against the trading members who disputed the alleged transactions, NSEL went after the auditors of the so-

called clients of defaulters (whose codes were used in the alleged transactions), with a hope and plan to secure orders from the ICAI declaring the accounts of the so called client companies wrong.

- h. That from the evidence and facts that emerged during the hearing before DC proved that there was no merit in the perception of DD that the alleged missing purchases and sales were genuine transactions that required accounting in the Companies RSNTPL and STCPL.
- i. That from the reply provided by the Complainant to the questions raised by the Respondent through a questionnaire, it appears that NSEL had no evidence that the companies concerned had placed orders for the alleged missing sales or purchases.
- j. Therefore, from the reply of the Complainant dated 28th September 2023 and from the affidavit of the directors of the company, it became clear that the alleged missing purchases and sales were disputed by SRTC. It is learnt that orders of Arbitral awards against SRTC on the liability to NSEL was disputed by SRTC, and the motive behind the allegation against the Respondent is to create self-serving evidence through ICAI, to make a claim in appellate courts that the accounts of the client Companies have been rejected by the ICAI.
- k. That on perusal of the invoices, it cannot be ascertained that it was invoices from NSEL regarding online trading.

15.1 The Committee further noted that the Complainant has also given his submissions wherein he had, inter-alia, mentioned as under: -

- a. The Respondent reiterated the observations of the Director (Discipline).
- b. That the affidavit produced by the Director of the Company cannot be relied upon without cross examination. In the said certificates, it was admitted that these Companies were engaged in whole-sale trade to make profits from market price fluctuations, and it was not disclosed to Auditors. On the other hand, it was contended that sale/purchase claimed by NSEL were based on disputed evidence. The above averments do not give any advantage to the Respondent.

- c. The said affidavits further dealt with the disputes between SRTC (Member) and NSEL (Exchange) after claiming that they were not the parties in any dispute. The Complainant has already claimed in the letter dated 28th September 2023 that the auditee company was under the control of Mr. Ramesh Nagpal, who is sole proprietor of SRTC (Member). In the name of clarifying that something was suppressed from Auditors, the said affidavit is being used to falsely support SRTC's case against NSEL.
- d. That it is brought on record by the Complainant in his letter dt. 28th September 2023 that it has obtained the Decree dated 04.10.2021 from Hon'ble Bombay High Court against SRTC and is under execution before Supreme Court Committee. However, it is falsely claimed by the Respondent in the affidavit that SRTC has raised higher counter claims and matter is under litigation.
- e. It is pertinent to note that Mr. Surender Nagpal who had filed affidavit as a director on behalf of STCPL, is the brother of Mr. Ramesh Nagpal, sole proprietor of SRTC (Member). Hence, this clearly establishes that STCPL is the sister concern of SRTC (Member) and such purported affidavit is filed to mislead the DC.

15.2 Accordingly, keeping in view the facts and circumstances of the case, the material on record and the submissions of the parties, the Committee passed its judgment.

FINDINGS OF THE COMMITTEE: -

- 16.** The Committee noted that in **first charge**, it was alleged that the Respondent had not reported the sales transactions of Rs.31.04 crores carried out by the Company (STCPL) through SRTC on NSEL platform and other incidental expenses which were reported to have not been recorded in the financial statements of STCPL. Further, the Respondent failed to point out in his audit report about the non-compliance of the requirements of accounting standards by the Company (STCPL) in preparation of the financial statements of the Company for the financial years 2013-14.

- 16.1** In respect of the above allegation, the Committee noted that the contention of the Complainant was that the sale made by STCPL on NSEL platform must have been reflected as sales in the financial statements of the STCPL for the financial year 2013-14 but no such sales was recorded by the STCPL. On the other hand, the Respondent in his defence stated that the turnover of Rs. 45.59 crores, as reflected in the Profit & Loss Accounts for the financial year 2013-14, may be inclusive of the alleged turnover which had been carried through broker SRTC on the NSEL platform amounting to Rs. 31.04 Crores. The Respondent also stated that he as an auditor had no such knowledge because of the absence of distinction in documentation.
- 16.2** The Committee noted that the Complainant had brought on record the details of transactions of buying and selling done by the Company on different dates during the financial year 2013-14 which shows that the Company had done the trading on NSEL platform with client id as STC through trading member SRTC. As per such details, all the transactions of sales through NSEL platform had taken place in the month of July, 2013. The Committee further noted that the Complainant had brought on record an e-mail dated 8th July 2013 from the director of the Company to NSEL wherein the said director had mentioned STCPL as client of SRTC with client id STC. The said facts clearly show that the Company had made the transactions through the NSEL.
- 16.3** In respect of the above charge, the Respondent submitted that at the time of audit he was not aware whether the sales transactions of the Company were sourced through NSEL platform with the intermediation of SRTC. The Respondent in support of his claim brought on record an affidavit of the Director of the Company wherein it was mentioned that the Company management had not disclosed operating mechanism of its trading activities with the auditor.
- 16.4** The Committee perused the documents on record and observed that the Company (STCPL) had made sales of around Rs. 47.87 crores approx. only to one party i.e., M/s Anand Rathi Commodities International Pvt. Ltd. during the financial year 2013-14 and the same was evident from the VAT returns

and ledger account of the aforesaid party brought on record by the Respondent for the financial year 2013-14. Further, from the balance sheet as on 31.03.2014, it was also noted that no amount was received by the Company from M/s. Anand Rathi Commodities International Pvt. Ltd. against the aforesaid sale of Rs.47.87 crores as the entire outstanding was shown as trade receivables in the balance sheet. Similarly, the Company had purchased goods of around Rs 40.16 crores from M/s. R.S. Nagpal Traders Pvt. Ltd, however, the payment made during the year was Rs 50 lakhs only. Thus, no payment was made or received by the Company except one payment of Rs.50 lakh to M/s R.S Nagpal Traders Pvt. Ltd. despite having transactions in crores.

16.5 Further, it was also noted that the transactions of sales and purchases were confined to the limited identified parties and all the transactions were carried out in April, May and June only despite the Company was dealing in the essential items like spices and condiments. Moreover, no payment was received nor paid by the Company even after 9 months from the date of sales & purchase.

16.6 From the above, the Committee noted that the Company was purchasing and selling goods without paying and receiving any consideration against the same. In such a situation, the Respondent should have become more cautious and suspicious and adopted more detailed procedures to verify the transactions related to sale and purchase. Further, the Respondent was involved in filing all tax returns and tax audit of the Company and accordingly, he was having access to all the documents / records of the Company. Furthermore, the Respondent failed to bring on record sufficient evidences on record to show that he had taken proper steps to verify the genuineness and accuracy of the purchase and sales in view of the aforementioned circumstances. Hence, the contention of the Respondent that there had been nothing on record to find out about the sale transactions that took place through NSEL platform was not acceptable and tenable.

16.7 In addition to the above mentioned, on perusal the financial statements and its annexure relating to the Notes to Accounts of the Company and note no.14 specifying the significant accounting policies adopted by the Company during the FY 2013-14, it is noted that these annexures had not been signed by either of the signatories to the financial statements though the name of the auditor and the director of the Company were written on it. Further, no such document was available in the set of financial statements submitted by the Complainant which was downloaded by him from MCA 21. Hence, it creates a significant doubt as to whether the said Notes to Accounts and significant accounting policies were part of the financial statements which was submitted on MCA portal by the Company. The Respondent also could not establish that these annexures were duly signed by the directors of the Company. Moreover, it was also observed that disclosures as required in terms of the requirements of accounting standards were not given in unsigned Notes to Accounts.

16.8 Hence, the Committee is of the view that despite the circumstances as prevailed at the time of audit requiring the auditor to apply extra checks and audit procedures, the Respondent did not bother to apply appropriate and extra audit procedures to check the genuineness and completeness of the sale transactions made by the Company during the financial year 2013-14. Due to such failure on the part of the Respondent, he could not find the non-reporting of sales made through NSEL Platform. Moreover, the non-compliance of the requirements of accounting standards was clearly visible from the face of the financial statements and unsigned notes to accounts. Thus, the Respondent was grossly negligent in performing his duties as an auditor and accordingly, he is held **guilty** under this charge for professional misconduct falling within the meaning of Items (6), (7) and (8) of Part I and Item (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

17. The Committee noted that the **second charge** is that the Respondent had failed to comply with the reporting requirement of the Companies (Auditor's Report) Order, 2003.

17.1 In respect of the above charge, the Committee observed that the Respondent in his audit report had mentioned that his audit report did not include a statement on the matters specified in paragraph 4 of the Companies (Auditor's Report) Order, 2003 as the said order was not applicable to the Company. The Respondent in his audit report mentioned as under: -

"This report doesn't include a statement on the matters specified in paragraph 4 of the Companies (Auditor's Report) Order, 2003 issued by the department of Companies Affairs, in terms of Section 227(4A) of the Companies Act, 1956 since in our opinion and according to the information and explanation given to us, said order is not applicable to the Company".

17.2 In this regard, the Committee noted that Companies (Auditor's Report) Order, 2003 [Issued in terms of Section 227(4A) of the Companies Act, 1956] were applicable on the Company. Further, the Respondent in his various verbal vis-à-vis written submissions had accepted his mistake and pleaded to take lenient view on the grounds that the said mistakes were technical omissions, and does not have any impact on true and fair position of the financial statement. Accordingly, it does not constitute professional misconduct.

17.3 Accordingly, in terms of the duty cased upon the auditor under Section 227(4A) of the Companies Act, 1956 requiring an auditor to include a statement specified by the Central Government under this section, the Respondent was required to include a statement on the matters as specified in CARO, 2003 but he failed to include the same and made incorrect reporting by mentioning in his audit report that the CARO 2003 was not applicable to the Company. Further, the Respondent on this charge had also accepted his mistake. Accordingly, 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.

18. The Committee with respect to the **third charge** noted that there were some lapses in preparing and presenting the Financial Statements of M/s. Suvaity

Trading Company Pvt Ltd (STCPL) for the financial year 2013-14, which was not in consonance with the Revised Schedule VI of the Companies Act, 1956.

18.1 After going through disclosures given in the financial statements vis-à-vis the disclosures requirements as given in the Schedule VI to the Companies Act, 1956 in relation to various items of the financial statements, the Committee observed that the Respondent as an auditor failed to point out in his audit report about the non-compliance of disclosures requirements of Schedule VI to the Companies Act, 1956 with respect to the following items of the financial statements:-

- a. No detail of **type of shares** such as equity or preference, no detail of authorized, paid up and subscribed share capital, no detail of any change in share capital during the year and even the value per share were not disclosed which was a violation of note 6 (A) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- b. No classification of Long-Term borrowings as required in terms of requirements of Schedule VI into Bonds/ Debentures/ Term Loan/ Deferred payment liabilities/ deposit/ loan and advances from related parties etc. was given in the financial statements or any schedules attached to it. Even the name of the party was not mentioned. The Committee noted that the same was a violation of the requirements of Note 6 (C) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- c. Trade Payables and Trade Receivable were shown in the financial statements without any details given in the Schedules/ notes – 4 and 7 attached to it. The same was a violation of the requirements of Note 6 (D) and Note 6(P) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- d. Under the head Current assets, nature of other current assets was not specified which was a violation of Note 6 (S) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule to the Companies Act, 1956.

e. Under the head short term provision, nature of provisions was not specified which was a violation of the requirement of Note 6 (H) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.

18.2 As regard the requirement of preparation and presentations of the financial statements, the Committee noted that Section 211 of the Companies Act, 1956 stated as under:-

"211. FORM AND CONTENTS OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT (1) Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of the financial year and shall, subject to the provisions of this section, **be in the form set out in Part I of Schedule VI, or as near thereto** as circumstances admit or in such other form as may be approved by the Central Government either generally or in any particular case; and **in preparing the balance sheet due regard shall be had, as far as may be, to the general instructions for preparation of balance sheet under the heading "Notes" at the end of that Part:"**

18.3 From the above, the Committee noted that the requirements of the Schedule VI to the Companies Act, 1956 were mandatorily required to be followed by the Company while preparing its financial statements for the financial year 2013-14. However, it is noted that various disclosure / details as required in terms of the aforesaid Schedule VI were not given by the Company in its financial statements for the financial year 2013-14.

18.4 The Committee further noted that as per Section 227 of the Companies Act, 1956, it was the duty of an auditor to report that whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by the Companies Act in the manner so required and give a true and fair view of the financial statements of the Company. Despite the violation of mandatory disclosures requirements, the Respondent remained silent and did not point out the same in his audit report. Further, the Respondent admitted his mistake in respect of above charge.

18.5 In view of the above, 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.

CONCLUSION

19. In view of the above observations, considering the submissions of the Respondent and documents on record, the Committee holds the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (6), (7) and (8) of Part I and Item (3) of Part II 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/-
(MR. ARUN KUMAR, I.A.S., RETD.)
GOVERNMENT NOMINEE

Sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

DATE:07/02/2024
PLACE:NEW DELHI

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

सीए. चेतना गुप्ता / CA. Chetha Gupta
उप सचिव / Deputy Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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