



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PR/137/18-DD/267/18-DC/1141/19]

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

[PR/137/18-DD/267/18-DC/1141/19]

In the matter of:

Mrs. Subhadra L. Gaikwad, President
Shri Sanjay M. Sinawane, Secretary,
Shri Santosh A. Kadam, Treasurer,
Om Triveni CHS Ltd., Navi Mumbai
Plot No. 168-170,172 & 173, sector 23 Jainagar
Navi Mumbai-400706

.... Complainant

-Vs-

CA. Gaurav Sureshkumar Agarwal (M.No.144100),
402, Amar Apartment CHS Ltd.,
Next to Samrat Hotel,
Dindayal Road, Dombivali (West)
Dombivali- 421202

.... Respondent

MEMBERS PRESENT:

1. CA. (Dr.) Debashis Mitra, Presiding Officer (Present in person)
2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)
3. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
4. CA. Rajendra Kumar P, Member (Present in person)
5. CA. Cotha S Srinivas, Member (Present in person)

DATE OF MEETING : 28.06.2022 (Through Physical/ Video Conferencing Mode)

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 10.02.2022, the Disciplinary Committee was inter-alia of the opinion that **CA. Gaurav Sureshkumar Agarwal (M.No.144100), Dombivali** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountant Act, 1949.

Mrs. Subhadra L. Gaikwad, President, Shri Sanjay M. Sinawane, Secretary, Shri Santosh A. Kadam, Treasurer, Om Triveni CHS Ltd., Navi Mumbai -Vs- CA. Gaurav Sureshkumar Agarwal (M.No.144100), Dombivali



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2. The Committee noted that this case was fixed earlier twice, and the Respondent neither replied to the email/ notice/ phone call nor sought any adjournment and nor confirmed his participation in the meeting. In the present hearing, also, the Respondent neither replied to the email/ notice/ phone call nor sought any adjournment and nor confirmed his participation in the meeting. The Committee noted that fair opportunities were already advanced to the Respondent to present his submissions and, in the absence of the same, the Committee decided to proceed further, in this case, by deciding the punishment ex-parte.
3. The Committee, while looking into the matter and the conduct of the Respondent, is of the opinion that as per charges, the Respondent in his Audit report failed to report that the office bearers of the Society had not maintained the books of accounts, vouchers for expenses, and the statutory registers. The Committee observed that Respondent accepted the audit assignment without obtaining any appointment letter. The Committee noted that the Respondent at the hearing stage had accepted his mistake. The Committee was of the view that no loss was caused to anyone due to technical lapse in the reporting made by the Respondent.
4. Accordingly, the Committee viewed that full opportunity for hearing was given to the Respondent and the Respondent was duly heard and ends of justice can be met if punishment is given to the Respondent to commensurate with his above professional misconduct.
5. Therefore, keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent before it, the Committee ordered that the Respondent CA. Gaurav Sureshkumar Agarwal (M.No.144100), Dombivali be REPRIMANDED.

sd/-

(CA. (DR.) DEBASHIS MITRA)
PRESIDING OFFICER

sd/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

sd/-

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

sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

sd/-

(CA. COTHA S SRINIVAS)
MEMBER

DATE : 5TH AUGUST, 2022
PLACE : NEW DELHI

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

विश्व नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विजय नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

[PR/137/18-DD/267/18-DC/1141/19]

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2021-2022)]

[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/137/18-DD/267/18-DC/1141/19]

In the matter of:

**Mrs. Subhadra L. Gaikwad, President
Shri Sanjay M. Sinawane, Secretary,
Shri Santosh A. Kadam, Treasurer,
Om Triveni CHS Ltd.,
Plot No. 168-170, 172 & 173, Sector 23, Jainagar
Navi Mumbai- 400706**

..... Complainants

Versus

**CA. Gaurav Sureshkumar Agarwal (M.No.144100)
402, Amar Apartments CHS Ltd.,
Next to Samrat Hotel,
Dindayal Road, Dombivli(West)
Dombivli-421202**

..... Respondent

MEMBERS PRESENT:

**CA. (Dr.) Debashis Mitra, Presiding Officer
CA. Amarjit Chopra, Govt. Nominee (Through VC)
CA. Babu Abraham Kallivayalil, Member (Through VC)**

DATE OF FINAL HEARING : 17.08.2021

PLACE OF FINAL HEARING : ICAI Bhawan, Delhi

PARTIES PRESENT :

Complainant : Shri Sanjay M. Sinawane,
Respondent : CA. Gaurav Sureshkumar Agarwal

Charges in Brief:-

1. The Committee noted that in the present case, the Respondent was held Prima-Facie Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountant Act, 1949 by Director (Discipline) on the allegations that the Respondent had committed serious mistakes while conducting the Audit of the Society for the financial year 2012-13 and the audit report so furnished by him was wrong and misleading. The Respondent was also found Guilty on the allegation that he in his Audit report failed to report that the office bearers of the society had not maintained the books of accounts and the statutory registers. In addition to this, it is also alleged that even though the office bearers of the society did not maintain any vouchers for the expenses carried out by the Society, still the accounts were audited by the Respondent and that too without reporting the same in the Audit report and the Respondent accepted the audit assignment without obtaining any appointment letter.

Brief facts of the Proceedings:

2. On the day of final hearing on 17/08/2021, the Committee noted that the Respondent was present before it through Video Conferencing Mode. On behalf of the Complainants Shri. Sanjay M. Sinawane was present before it through Video Conferencing Mode. The Committee noted that there was some technical glitch on the part of the Complainant, when he was asked to rectify the same, he left the meeting and did not join back later. Since the Respondent was present before it, the Committee decided to proceed further and accordingly the Respondent was administered oath.
- 2.1 On being asked by the Committee whether the Respondent accepts the charges levelled against him, the Respondent pleaded not guilty and wish to defend the

charges. Thereafter the Respondent made detailed submissions in his defence. After considering all papers available on record and after detailed deliberations and recording the submissions, the Committee decided to conclude the matter.

Findings of the Committee

3. The Committee noted that the Respondent submitted that he had verified the vouchers and other related documents. With regard to charge of non- updating of certain registers, the Respondent submitted that he had approached the treasurer to update all the records and share with him at the time of the signing of the report. But, at the last moment the treasurer was unable to come and the person who appeared on behalf of treasurer assured him that registers were complete. So, on bonafide belief the Respondent did not check the registers and signed the financials. Accordingly, the Committee noted that gross negligence on part of the Respondent is evident for this charge.
- 3.1 The Committee noted that on specific question to the Respondent that as to how he was right in issuing of audit report, the Respondent did not respond/ was unable to answer. Accordingly, the Committee considers the same as acceptance of guilt by the Respondent with respect to his lapses in conducting the audit. Looking into the admissions of the Respondent vis-a-vis gross negligence on his part, the Committee decided to hold him Guilty of this charge.
4. As regards failure of the Respondent in respect of his appointment is concerned, the Committee noted that the Respondent accepted that while commencing the audit certain formalities were pending. The Committee looking into his admission decided to hold him Guilty with respect to this charge also.

Conclusion

5. In view of the above findings stated in above paras and the Committee, on considering the documents and submissions on record decided that the Respondent - **CA. Gaurav Sureshkumar Agarwal (M.No.144100), Dombivali** is held **Guilty** of Professional Misconduct falling within the meaning of Item (7)

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of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

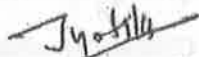
sd/-

(CA. (Dr.) DEBASHIS MITRA)
PRESIDING OFFICER

(approved & confirmed through email)
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

(approved & confirmed through email)
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Date: 19.1.2022
Place : New Delhi


प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक प्रमुख / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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