

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 49/2023

Date: 29.09.2023

ORDER

In the matter of CA P. Poovalingam, ICAI Membership No. 024295 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA P. Poovalingam, partner of J. Singh & Associates (Audit Firm), (ICAI Firm Registration No: 110266W), Mumbai, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 024295) and was the Engagement Partner (EP) for the statutory audit of fourteen branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA P. Poovalingam for his role as the Engagement Partner (EP) in the audit of fourteen branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA P. Poovalingam, who was the EP for the audit of fourteen of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA P. Poovalingam accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA P. Poovalingam not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding the defective appointment, the Branch Audit performed by CA P. Poovalingam was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA P. Poovalingam, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA P. Poovalingam a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA P. Poovalingam, to whom this Order relates and who acted as the branch auditor for the fourteen branches of DHFL viz. Chandrapura Branch, Kengeri Branch, Bangalore Jayanagar -1, Bangalore Majestic Branch, Bengaluru Metro Jayanagar Branch, Nelamangala Branch, Bangalore RPU Branch, Zone South West Branch, Yelahanka Branch, Bangalore Jayanagar -2, Kolar Branch, Bangalore S.V. Koramangala Branch, Marthahalli Branch and Tumkur Branch.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other

¹ As defined in para 6 of SA 230

applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.

9. As part of NFRA's investigations, CA P. Poovalingam was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The Audit File along with other information in respect of the fourteen branches for FY 2017-18 were submitted by the Audit Firm on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA P. Poovalingam on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of fourteen branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 18.11.2022. The EP submitted the reply on 18.11.2022 and requested a personal hearing along with his legal counsel.
12. The EP was granted an opportunity for a personal hearing without any legal counsel and the EP attended the personal hearing on 14.03.2023 before the Executive Body of NFRA. During the personal hearing and in the additional written submissions after the hearing, the EP reiterated his initial written response to the SCN that this was not a statutory audit but a special assignment to carry out verification of certain specific areas. However, later in accordance with the decision of the Executive Body of NFRA, the EP was granted an additional opportunity for a personal hearing along with his legal representative as was requested by him earlier. The hearing was held on 02.06.2023. The EP reiterated his earlier contentions in the second personal hearing as well and submitted a written note thereof vide email dated 06.06.2023. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.
 - I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act**
14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as "Statutory Auditor for the branches" of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.

15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. Thus, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP stated *“scope of work is very limited...we were not to express our opinion on the financial statements under clause 40 of section 2...our appointment was made by the management...we are only to report to the statutory auditor of the company”* and that the reports were not accessible to *“public at large”*. EP reiterated in written and oral submissions that the subject matter assignment was a *“glorified internal audit”*.
17. On examination of the replies of the EP, the appointment letter acknowledged by the audit firm and the “Independent Branch Auditors’ Report” issued by the EP clearly described the engagement as a Branch Statutory Audit. In terms of Section 143(8) read with Rule 12³, the scope of the branch auditor is as contained in S.143(1) to S.143(4). The appointment letter also makes it clear that *“Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”*. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
18. The below documents evidence that the EP accepted the subject matter audit assignment, and acted in good faith as “Statutory Auditor for the Branches” of DHFL until an SCN was issued by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as "Statutory Auditor for the branches" at a "Statutory Audit Fees" of ₹2,90,000/-
2	Acceptance Letter	26.08.2017	Signed by Audit Firm accepting appointment as "Branch Statutory Auditor"
3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that <i>“Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”</i>

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

³ Duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor

4	Confirmation letters issued to CAS	07.04.2018	The EP confirms to CAS that “we are aware that (i) the financial information of the branches for the...year ended 31 st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31 st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for your report on your audit of the financial statements of the Company”.
5	Independent Auditor’s Report Branch	Various reports dated 07.04.2018 for fourteen branches	EP certifies under “Auditor’s Responsibility” that “we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance” and also certified the “true and fair view of the Branch as at 31 st March 2018”.
6	Branch’s Financial Information Summary Memorandum	07.04.2018	EP certifies that “In our opinion, based on our audit, the financial information...as of 31 st March, 2018 and for the year ended gives a true and fair view”.
7	Covering letter to the Audit Files and other information submitted by Auditor to NFRA	Part of Audit File submitted to NFRA	EP states that “we furnish...information...pertaining to the statutory audit”

Besides the above, the EP prepared a report titled “Independent Branch Auditors’ Report” on the accounts of the branch examined by her and sent it to the auditor of the company as required by the

proviso to Section 143(8) read with Rule 12 of Companies (Audit and Auditors) Rules, 2014. Thus, the contention of the EP that the subject matter engagement was not a “statutory branch audit” is an afterthought and cannot be accepted. Besides, in terms of S.143(3)(c), the Company Auditor in his Audit Report to the members/shareholders referred to the Audit Reports received from Branch Auditors by stating that *“incorporated the returns...audited by branch auditors”* and that *“reports on the accounts of the branch offices...audited under section 143(8)...by the branch auditors have been sent to us and have been properly dealt with by us in preparing this report”*.

19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct)⁴ a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013) in respect of such appointment have been duly complied with.
20. The ICAI Code of Ethics, 2009 makes it clear that *“Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word “ascertain” means “to find out for certain”. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections”*. It is evidenced by the instances listed in the Table above, the EP’s documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit.
21. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company’s offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, acceptance of audit engagement by the audit firm vide letter dated 26.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the “Independent Branch Auditor’s Report” by the EP for the fourteen Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

⁴ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

22. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁵. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession⁶. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as a “glorified internal audit”. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

23. Notwithstanding our finding in Part I above that the appointment of CA P. Poovalingam was not as per the provisions of the Law, we now discuss the non-compliance by CA P. Poovalingam with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *“we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance”*. Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

⁵ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

⁶ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

24. The EP was charged with non-compliance with SA 210⁷ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁸ as well. SA 210⁹ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
25. Responding to the charges, the EP stated that *“Our acceptance letter, accompanied by the full letter of appointment from DHFL, duly signed by us, together satisfies the requirements of SA 210, to the extent it is applicable”*.
26. The contention of EP is not acceptable. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework¹⁰. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The terms given by the company cannot substitute the responsibility cast on the EP by SA 210, as prescribed under the Act. The EP’s response above shows a flawed understanding of the scope of SA 210.
27. The appointment letter also makes it clear that *“Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”* Thus, the subject matter assignment was not only limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter, as mandated by SA 210, before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.
28. Besides, between 2015-16 and 2016-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company’s auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210. The EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 24 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

⁷ SA 210, Agreeing the Terms of Audit Engagements.

⁸ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁹ Para 9, 10 and 11 of SA 210

¹⁰ The sample engagement letter provided in appendix I of SA 210 may be referred.

29. The EP was charged with non-compliance with SA 230¹¹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
30. Responding to the charges, the EP denied all the charges and submitted that he "*conducted the statutory branch audit of DHFL, in compliance with Standards on Audit, issued by ICAI, to the extent the same are applicable*".
31. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by paragraph 8 of SA 230, documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
32. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
33. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
34. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
35. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
36. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300

¹¹ SA 230 – Audit Documentation

- c. Determination of materiality levels (refer to SA 320)
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)
 - f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. List of documents verified (substantive audit procedures).
 - h. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - i. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - j. KYC verification, anti-money laundering verification, security verification (substantive audit procedures) and so on.
37. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 29 above regarding non-compliance with SA 230 stand established.
38. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states “*Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed*”.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

39. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since, the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

40. The EP denied the charges and stated that “*we have complied with SAs in general and have duly complied with SA 700 in particular with respect to forming an opinion and reporting on Financial Statements*”.
41. The EP certified “*true and fair view*” of the branches in “*Independent Branch Auditors’ Report*” as well as in “*Branch’s Financial Information Summary Memorandum*” as noted in para 18 above. There is no determination of any planning and performance materiality in terms of SA 320. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the EP issued an unmodified opinion without complying with the requirements of SA 700.
42. Therefore, in the absence of a determination of materiality and assessment of the risk of material misstatements and the test of controls and for reasons stated in para 31 to 36 and Para 41 above, we observe that the opinion issued by EP is baseless. Hence, the charges in para 39 above regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

43. The EP was charged with non-compliance with the following provisions of SAs:
- Para 6, 7, 8, 9 & 10 of SA 300¹⁴ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁵ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
 - Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - Para 6 & 9 of SA 500¹⁶ in not designing and performing audit procedures to obtain sufficient appropriate audit evidence and not evaluate the reliability of information produced by the company.
 - Para 5, 6 and 8 of SA 510¹⁷ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - Para 6 of SA 520¹⁸ relating to the design and performance of analytical procedures.
 - Para 4, 6, 7, 8 & 9 of SA 530¹⁹ relating to the determination of sample design, sample size and required audit procedures.
 - Para 8, 9 & 10 of SA 580²⁰ regarding obtaining written representations from the management about their responsibilities.
44. The reply of the EP that he complied with the SAs to the extent applicable is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 31 to 37 and Para 43 above.

¹⁴ SA 300, Planning an Audit of Financial Statements.

¹⁵ SA 330, The Auditor’s Responses to Assessed Risks

¹⁶ SA 500, Audit Evidence

¹⁷ SA 510, Initial Audit Engagements – Opening Balances

¹⁸ SA 520, Analytical Procedures

¹⁹ SA 530, Audit Sampling

²⁰ SA 580, Written Representations

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

45. Given the above-mentioned actions and omissions, it is established that CA P. Poovalingam did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP P. Poovalingam as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP P. Poovalingam committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

46. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
47. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
48. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²¹ in the larger public interest.
49. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More

²¹ As defined in Rule 3 of NFRA Rules 2018

importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

50. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA P. Poovalingam right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA P. Poovalingam has not adhered to the Standards on Auditing and provisions of the law.
51. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
52. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA P. Poovalingam;
 - ii. CA P. Poovalingam is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
53. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

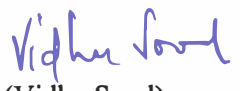
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary
सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA P. Poovalingam,
ICAI Membership No - 024295,
Partner, J. Singh & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 110266W)
(1) 505/506/507, Hubtown Viva,
Shankarwadi, Western Express Highways,
Between Andheri & Jogeshwari (E),
Mumbai – 400060, Maharashtra
(2) Rahmath Nagar, Palayankoyttai,
Tirunelveli, Tamil Nadu-627002
Email: poovan1955@gmail.com
ca_jsingh@rediffmail.com
cajsnggh@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 39/2023

Date: 29.09.2023

ORDER

In the matter of CA S K Senapati, ICAI Membership No. 400016 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA S K Senapati, partner of M/s ABPS & Associates, (ICAI Firm Registration No: 324706E), Bhubaneswar, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 400016) and was the Engagement Partner (EP) for the statutory audit of three branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA S K Senapati for his role as the Engagement Partner (EP) in the audit of three branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs under section 132 (4) of the Companies Act, 2013 (the Act), including CA S K Senapati, who was the EP for the audit of three of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA S

K Senapati accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA S K Senapati not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required him to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment, the Branch Audit performed by CA S K Senapati was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA S K Senapati, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP’s professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA S K Senapati a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate’s reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the

¹ As defined in para 6 of SA 230

appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA S K Senapati, to whom this Order relates and who acted as the branch auditor for the three branches of DHFL at Guwahati, Rashbehari and Siliguri.

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, the audit firm was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The Audit File along with other information in respect of the three branches for which CA S K Senapati was the EP for FY 2017-18 was received on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA S K Senapati on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of three branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 18.11.2022 but was granted an extension of time following a request vide e-mail dated 17.11.2022. The EP submitted the reply on 04.12.2022.
12. The EP availed of the opportunity for a personal hearing and attended the personal hearing on 15.03.2023 before the Executive Body of NFRA. The EB brought to his notice that his written submissions stated that it was obvious for the Firm to believe that the Company must have complied with the provisions of Section 139. But, during the personal hearing, the EP categorically, parted from his written submissions and stated that non-verification of compliance with the applicable provisions was a “lacuna” on his part. The various

charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that “*When the Firm received the request from DHFL with a copy to its Company Statutory Auditor, it was nothing but obvious for the Firm to believe that the Company must have complied with the provisions of Section 139*”.
17. We observe from the replies of the EP, the appointment letter acknowledged by the audit firm and the “Independent Branch Auditors’ Report” issued by him that the engagement is clearly described as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)³ in respect of such appointment have been duly complied with.

19. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*".
20. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, the audit firm's acceptance vide letter dated 31.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the three Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA S K Senapati was not as per the provisions of the Law, we now discuss the non-compliance by CA S K Senapati with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "*Independent Branch Auditors' Report*" stating therein that "*we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance*". Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

23. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

24. Responding to the charges, the EP stated that the appointment letter issued by the Company contained “self-explanatory” scope of work and guidelines for the audit. EP further submitted that he had “*constant discussion over telephone with branch management*” and “*audit was recurring in nature having no change in the objective and scope of audit, terms of the audit engagement management, ownership, and having no significant change in nature or size of the branch’s business in the referred year in comparison to the previous years. Hence, the circumstances did not warrant a revision in audit engagement letter for the referred period as per the provisions of Para 13 of SA 210*”.
25. The contention of EP is not acceptable. The appointment letter makes it clear that “*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*” Thus, the subject matter assignment was not limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of a proper description of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter (as prescribed by SA 210)⁸ was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.
26. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company’s auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210.
27. Thus, the EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above regarding non-compliance with SA 210 and SA 200 stand proved.

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230⁹. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. Responding to the charges, the EP denied all the charges and submitted that “*the assignment being repetition in nature, documents compiled in the Audit File is sufficient as far Branch Statutory Audit is concerned*”. Hence, all the necessary basic documentation was referred to from the audit file of the last year(s).
30. The EP’s contention is not acceptable in view of the absence of any documentation in this regard. On a specific query in this regard during the Oral hearing, the EP stated that there was no such reference to the previous year’s files in the current year’s audit file. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and as required by para 8 of SA 230 documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor’s basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.

⁹ SA 230 – Audit Documentation

33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
35. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹⁰).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹¹). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
36. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 above regarding non-compliance with SA 230 stand established.
37. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit

¹⁰ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹¹ SA 320, Materiality in Planning and Performing an Audit

regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.
39. The EP replied that *“Compliance of SA 700 has to be looked into in the context of scope, size, function, time constraints, guidelines of statutory auditors and the financial statements to be audited by the Branch Auditors.”*
40. The EP did not determine any planning and performance materiality in terms of SA 320. EP’s audit documentation nowhere specified any criterion¹⁴ for the selection of “random” loan samples for verification. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. The assertion of the existence of these loans was required to be ensured through additional procedures as it may constitute a material misstatement in the Branch books, the impact of which is not documented by the EP. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the contention of the EP that *“Report was prepared on reasonable assurance that the financial*

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

¹⁴ SA 530, Audit Sampling

statement expresses a fair and correct view.” is baseless and the EP issued an opinion without complying with the requirements of SA 700.

41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 38 above regarding non-compliance with SA 700 stand proved.

Non-compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that *“there was an overall strategy setting scope, timing, direction of the audit and developing the audit program”*. The *“Audit Programme”* available in the audit file does not comply with SA 300, as it is made without first complying with SA 300, SA 315 and SA 330 viz. considering results of preliminary engagement activities¹⁶, planning nature, timing and extent of direction and supervision of engagement team members and review of their work¹⁷.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁸ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that *“as majority of the decision were not taken at the branch level most of the risk at branch level has been eliminated”*. EP’s contentions cannot be accepted in the absence of any working papers in the Audit File to satisfy the mandatory documentation requirements of SA 315 and 330 viz. (1) discussion among the engagement team, (2) key elements of the understanding obtained, (3) risk assessment procedures performed, risks identified, and related controls about which the auditor has obtained an understanding, etc.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. The EP submitted that *“many factors in SA 320, as far as materiality is concerned, does not fall within the ambit of Branch Statutory Audit of DHFL branches”*. Mandatory documentation requirements of SA 320 include (1) the factors considered in the determination of materiality, (2) materiality for the financial statements as a whole, (3) the materiality level or levels for particular classes of transactions, account balances or disclosures, (4) performance materiality and (5) any revision of the materiality amounts as the audit progress. The audit file in the present case lacked such mandatory documentation. Thus, EP’s claims cannot be accepted.

¹⁵ SA 300, Planning an Audit of Financial Statements.

¹⁶ Para 7 of SA 300

¹⁷ Para 10 of SA 300

¹⁸ SA 330, The Auditor’s Responses to Assessed Risks

- d. Para 5, 6 and 8 of SA 510¹⁹ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances. The EP submitted that “I being the auditor of the same branches for the financial year 2016-17 (previous year) also” so all documents were available with him. EP’s contention cannot be accepted since to evidence compliance with the requirements of the SAs, it is the fundamental stipulation of SA 230 that the auditor shall assemble the audit documentation in an audit file (and not multiple audit files of different years). If permanent working papers are maintained in the previous year’s audit file, proper reference to the same shall be made in the current year’s audit file, so that, the nature, timing and extent of the audit procedures performed are properly documented.
 - e. Para 6 of SA 520²⁰ relating to the design and performance of analytical procedures. The EP submitted that “SA 520 was meticulously followed”.
 - f. Para 4, 6, 7, 8 & 9 of SA 530²¹ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that “scope of work & guidelines issued in the appointment letter” addressed the requirements of SA 530. In the absence of any evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it, the contentions of the EP are without any basis. The contention that the basis of selection of the sample was defined in the appointment letter itself is wrong since the application of the statistical method of random sampling and the basis for the selection of the sampling method are nowhere evidenced in the Audit File.
 - g. Para 8, 9 & 10 of SA 580²² regarding obtaining written representations from the management about their responsibilities.
43. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 30 to 35 and Para 42 above read with the requirements of para 75 of SQC 1 and paras 14, 15 and A21 of SA 230 regarding the completion of the assembly of the final audit engagement files within 60 days after the date of the auditor’s report.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

44. Given the above-mentioned actions and omissions, it is established that CA S K Senapati did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed

¹⁹ SA 510, Initial Audit Engagements – Opening Balances

²⁰ SA 520, Analytical Procedures

²¹ SA 530, Audit Sampling

²² SA 580, Written Representations

by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP S K Senapati as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP S K Senapati committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

45. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
46. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
47. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²³ in the larger public interest.
48. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence

²³ As defined in Rule 3 of NFRA Rules 2018

shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

49. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA S K Senapati right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA S K Senapati has not adhered to the Standards on Auditing and the provisions of the law.
50. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
51. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that the professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:

- i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA S K Senapati;
- ii. CA S K Senapati is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

52. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)

Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)

Full-Time Member

Sd/-

(Smita Jhingran)

Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023

Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA S K Senapati,
ICAI Membership No - 400016,
Partner, M/s ABPS & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 324706E)
(1) 182, Saheed Nagar,
Behind Alok Bharati Tower,
Bhubaneswar – 751007
(2) Flat No 15, Plot No 38,
Sahid Nagar,
Bhubaneswar – 751007
Email: caabps@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण /National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 57/2023

Date: 29.09.2023

ORDER

In the matter of CA Ramesh Pipalawa, ICAI Membership No. 103840 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 07.12.2022, issued to CA Ramesh Pipalawa, partner of M/s M/s Shah & Taparia, (ICAI Firm Registration No: 109463W), Mumbai, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 103840) and was the Engagement Partner (EP) for the statutory audit of seventeen branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Ramesh Pipalawa for his role as the Engagement Partner (EP) in the audit of seventeen branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these Eps responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Ramesh Pipalawa, who was the EP for the audit of seventeen of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Ramesh Pipalawa accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Ramesh Pipalawa not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment the Branch Audit performed by CA Ramesh Pipalawa was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Ramesh Pipalawa, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation to support his audit opinion that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Ramesh Pipalawa a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the Statutory Auditor CAS. Accordingly, NFRA suo motu called for the audit files from the EPs who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Ramesh Pipalawa, to whom this Order relates and who acted as the branch auditor for the seventeen branches of DHFL at Zone AP, RPU Hyderabad, Hyderabad, Hyderabad Metro, Hyderabad Nagole, Hyderabad Sales Vertical, A S Rao Nagar, Gachibowli, Hyderabad Ameerpet, Zone West, RPU Pune, Pune, Pune – Gera Junction, Pimpri, Swargate, Hadpsar and Chakan².
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other

¹ As defined in para 6 of SA 230

² The appointment letter was for the "Statutory Branch Audit" of seventeen DHFL branches including Zone AP branch. However, the reports were issued by the EP for eighteen branches. The audit report was not issued for the Zone AP branch but was additionally issued for the Hyderabad Zone and CPU Hyderabad branches.

applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.

9. As part of NFRA's investigations, CA Ramesh Pipalawa was asked to provide the Audit File vide NFRA letter dated 12.09.2022, giving 15 days' time. The EP submitted the Audit File along with other information in respect of the eighteen branches for FY 2017-18 on 23.09.2022.
10. The investigation by NFRA revealed prima facie that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Ramesh Pipalawa on 07.12.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of seventeen branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply by 05.01.2023 but was granted an extension of time following a request vide e-mail dated 05.01.2023. The EP submitted the reply on 20.01.2023.
12. The EP availed of the opportunity for a personal hearing on 16.03.2023 before the Executive Body (EB) of NFRA. In the personal hearing, the EB brought to his notice that in his written submissions, he stated that he had performed "*a special and limited audit*" and CAS only "*were also appointed as the branch auditors*". But, during the personal hearing, the EP categorically parted from his written submissions and stated that he had worked as "*Statutory Auditor*" for the branches mentioned above and that his appointment was in line with the appointment power delegated to the Board of Directors/Committee in 31st Annual General Meeting of DHFL. Vide email dated 18.03.2023, he made a written submission confirming the stand that he took during the personal hearing. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.
13. It is pertinent to note that the EP also raised the issue of jurisdiction of NFRA vis-à-vis financial year 2017-18. We observe that NFRA has requisite jurisdiction and authority under Section 132(4) of the Act, read with other applicable provisions of the Act, to monitor and enforce compliance with the SAs and to investigate matters of professional misconduct of Chartered Accountants falling under the NFRA domain.

C. MAJOR LAPSES BY THE EP

14. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

15. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
16. On examination of the Audit File, we observe that despite a specific requirement³ in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, he also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
17. In his written reply to this charge, the EP submitted that “*M/s Chaturvedi & Shah were the sole Statutory Auditors of the Company including those of its zonal, regional and branch offices...our audit was in the nature of a special and limited audit for certain specific tasks for which scope, methodology and reporting formats were prescribed*”. However, during the oral hearing held on 16.03.2023, he confirmed that he signed the “Independent Branch Auditor’s Report” as “Statutory Auditor”. We note that this statement is in sharp contrast to the written submission. The EP also submitted during the oral hearing that “*the only technical defect would be that through oversight the procedural part for our appointment was not verified by us. Even in this regard, in terms of 'Doctrine of Indoor Management', we believed that since it was a large and reputed corporate with all the professional people like Company Secretary and Secretarial Auditors to look after the legal procedures we presumed that all the relevant compliances must have been taken care of*”. He further stated that “*our appointment as Branch Auditors for the period of three years from FY 2015-16 to FY 2017-18 had been made by the Board of Directors / Committee as the power for our above appointment was delegated by the members of the company in the 31st Annual General Meeting*” and the “*Financial Statements have been approved and adopted in the Annual General Meeting held on 27th June, 2018. This amounts to ratification of the Board's decision by the members in the above Annual General Meeting*”.
18. We observe that the EP is making conflicting statements and changing stands. The Audit was concluded in the year 2018 and the EP was unaware of the nature and legality of his appointment as of that date. The appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him, clearly described the engagement as a Branch Statutory Audit. Even after receiving the SCN, he was of the view that it was not a statutory branch audit. Now based on some inapplicable resolutions for FY 2017-18, he submits that it was a statutory audit. This shows the absence of professional behaviour as required by SA 200. These facts, along with the EP’s admission that he did not verify the “*procedural part*” relating to the appointment while performing the Statutory Branch Audit, prove the charges in para 16 & 17 above that the EP did not verify the validity of his appointment and did not exercise due diligence in accepting the engagement.
19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional

³ Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁴ in respect of such appointment have been duly complied with.

20. The ICAI Code of Ethics, 2009 makes it clear that *"Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections"*.
21. As per Section 143 (8) of the Act, the appointment of a Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment, EP's acceptance vide letter dated 07.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for eighteen Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part. The protection offered by the "Doctrine of Indoor Management" is not available in this case in view of the specific requirements of the CAs Act and SA 200. Moreover, the declaration of voting results of the resolution to ratify the appointment of CAS was available in the public domain (www.bseindia.com) well before 07.09.2017, the date on which the EP accepted the invalid appointment. The resolution in the 31st AGM is not applicable for FY 2017-18, particularly when the AGM appointed only CAS to audit the company and all its branches. Section 143(8) does not contemplate two statutory auditors for a branch.
22. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁵. The said lack of due diligence in accepting an invalid appointment is also

⁴ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

⁵ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf>) - Last accessed 29.09.2023)

professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 15 and 16 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

23. Notwithstanding our finding in Part I above that the appointment of CA Ramesh Pipalawa was not as per the provisions of the Law, we now discuss the non-compliance by CA Ramesh Pipalawa with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

24. The EP was charged with non-compliance with SA 210⁶ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁷ as well. SA 210⁸ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
25. Responding to the charges, the EP stated that *"As per Para 13 and A29 of SA 210 (Revised), a continuing auditor may decide not to send Audit Engagement Letter in case of Recurring Audits.*

⁶ SA 210, Agreeing the Terms of Audit Engagements.

⁷ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁸ Para 9, 10 and 11 of SA 210

We were the auditors of the same branches in the previous years too... appointment letter issued by the company contained detailed guidelines for audit... The said guidelines specified the areas of scope and reporting formats”.

26. The contention of EP is not acceptable. Paragraph 13 relied on by the EP requires an assessment from the auditor of whether circumstances require the terms of the audit engagement to be revised and whether there is a need to remind the entity of the existing terms. There is no such assessment documented. In fact, between the financial years 2015-16 and 2017-18, the circumstances changed with respect to the scope of the engagement. In 2015-16, the AGM resolved to appoint separate auditors for the company and branches, while in subsequent years only one auditor was appointed for the company including all its branches. The EP failed to notice this critical change.
27. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter⁹ (as prescribed by SA 210) was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.
28. The appointment letter makes it clear that “*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*” Thus, the subject matter assignment was not limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.
29. We conclude that EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 25 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

30. The EP was charged with non-compliance with SA 230¹⁰. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
31. The EP denied all the charges and submitted that all the required procedures were duly done. He submitted additional working papers along with his written reply purportedly “*Audit Programme*” and stated that “*...we were the auditors of the same branches in the preceding years as well. We were well aware of the branch operations, internal controls, accounting policies, etc. There were no material changes during the year...*”

⁹ The sample engagement letter provided in appendix I of SA 210 may be referred.

¹⁰ SA 230 – Audit Documentation

32. There is no evidence in the Audit File to indicate that the EP had followed an audit programme/plan and performed audit procedures and as required by para 8 of SA 230 documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
33. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
34. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
35. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
36. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
37. The Audit File does not even contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹¹)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300. Even the "*Audit Programme*" submitted along with the reply to the SCN does not comply with SA 300 as it is made without first complying with SA 300, SA 315 and SA 330 viz. considering results of preliminary engagement activities¹², planning nature, timing and extent of planned risk assessment procedures¹³, etc.
 - c. Determination of materiality levels (refer to SA 320¹⁴). The EP submitted that "*materiality levels and samples for loan verification were prescribed to us and we had duly followed the same... expenses were checked by us in the range of 25% to 100% depending on the nature of expenses*". This contention cannot be accepted since there is no documentation of

¹¹ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment

¹² Para 7 of SA 300

¹³ Para 8 of SA 300

¹⁴ SA 320, Materiality in Planning and Performing an Audit

materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality is used in the audit.

- d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)
 - f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. Proof of verification of trial balance items, including assets (substantive audit procedures). The EP submitted that “*scrutiny and verification of accounting data was done on the computer screen*”.
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
38. Further, verification of original documents as required by the scope of work cannot be achieved by verification of soft copies. In the absence of proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 31 above regarding non-compliance with SA 230 stand established.
39. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states “*Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review...the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed*”.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

40. The EP was charged with non-compliance with SA 700. As per SA 700¹⁵ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁶.

¹⁵ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁶ Para 11 of SA 700

41. The EP replied, *“I humbly submit that there has been no instance of a difference between the amounts, classification, presentation, or disclosure of a reported accounting statement item and amount, classification, presentation, or disclosure that is required for the item to be in accordance with the applicable financial reporting framework.”*
42. The EP did not determine any planning and performance materiality in terms of SA 320. Thus, the contention of the EP that irregularities observed during the audit were not material in terms of SA 320 cannot be accepted. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. However, the EP issued an opinion without complying with the requirements of SA 700.
43. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 41 regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

44. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁷ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁸ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. EP's contentions cannot be accepted in the absence of any working papers in the Audit File to satisfy the mandatory documentation requirements of SA 315 and 330 viz. (1) discussion among the engagement team, (2) risk assessment procedures performed, risks identified, and related controls about which the auditor has obtained an understanding, etc.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - d. Non-compliance with para 5, 6 and 8 of SA 510 relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - e. Para 6 of SA 520¹⁹ relating to the design and performance of analytical procedures.
 - f. Para 4, 6, 7, 8 & 9 of SA 530²⁰ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that *“sample size, design etc. were prescribed to me in the Appointment Letter and we were mandated to follow it.”* The EP's contention cannot be accepted since the *“Guidelines for Statutory Audit of Branches”* issued along with the Appointment letter required the EP to verify several “random” loan accounts. However, the application of the statistical method of random sampling and the basis for the selection of the sampling method are nowhere evidenced in the Audit File..
45. The reply of the EP is not acceptable for the reasons stated in Para 32 to 38 and Para 44 above and in view of the requirement of Para 75 of SQC 1 read with paras 14, 15 and A21 of SA 230 regarding

¹⁷ SA 300, planning an Audit of Financial Statements.

¹⁸ SA 330, The Auditor's Responses to Assessed Risks

¹⁹ SA 520, Analytical Procedures

²⁰ SA 530, Audit Sampling

the completion of the assembly of final audit engagement files within 60 days after the date of the auditor's report.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

46. Given the above-mentioned actions and omissions, it is established that CA Ramesh Pipalawa did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Ramesh Pipalawa as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Ramesh Pipalawa committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

47. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
48. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
49. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²¹ in the larger public interest.
50. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal

²¹ As defined in Rule 3 of NFRA Rules 2018

requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

51. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Ramesh Pipalawa right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also find that he made conflicting statements in his written submissions and during the personal hearing before the EB, further indicating unprofessionalism on his part. We conclude that despite being a qualified professional, CA Ramesh Pipalawa has not adhered to the Standards on Auditing and the provisions of the law.
52. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
53. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved, considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Ramesh Pipalawa;
 - ii. CA Ramesh Pipalawa is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
54. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi

Vidhu Sood

(Vidhu Sood)

Secretary

सचिव / Secretary

राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Ramesh Pipalawa,
ICAI Membership No - 103840,
Partner, M/s Shah & Taparia,
Chartered Accountants,
ICAI Firm Registration Number: 109463W
(1) 12, Navjeevan Wadi,
Dhobi Talao, Mumbai – 400002
(2) 203, Center Point Building,
Lalbaug, Parel, Mumbai- 400012
Email: ramesh@shahtaparia.com,
capipalawa@gmail.com
info@shahtaparia.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Securities and Exchange Board of India, Mumbai.
- (iii) Reserve Bank of India
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 43/2023

Date: 29.09.2023

ORDER

In the matter of CA D N Chaturvedi, ICAI Membership No. 012840 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA D N Chaturvedi, partner of M/s D N Chaturvedi & Co, (ICAI Firm Registration No: 000183C), who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 012840) and was the Engagement Partner (EP) for the statutory audit of six branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA D N Chaturvedi for his role as the Engagement Partner (EP) in the audit of six branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant to an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA D N Chaturvedi, who was the EP for the audit of six of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA D N Chaturvedi accepted the appointment, portrayed himself as “Branch Statutory Auditor”

in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA D N Chaturvedi not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment, the Branch Audit performed by CA D N Chaturvedi was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA D N Chaturvedi, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation and displayed a flawed understanding of standards that established the EP’s professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA D N Chaturvedi a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate’s reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the Statutory Auditor CAS. Accordingly, NFRA suo motu called for the audit

¹ As defined in para 6 of SA 230

files from the EPs who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA D N Chaturvedi, to whom this Order relates and who acted as the branch auditor for the six branches of DHFL viz. RPU Lucknow, Lucknow Lal Bagh, Lucknow, Gorakhpur, Kanpur and Jhansi (Gwalior).

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, CA D N Chaturvedi was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. However, the EP submitted the Audit File along with other information in respect of the six branches for FY 2017-18 on 23.09.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA D N Chaturvedi on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of six branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply by 18.11.2022 and he submitted his reply on 02.11.2022.
12. The EP did not avail of the opportunity of a personal hearing. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, he also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In his written reply to this charge, the EP submitted that *“I wish to agree with you that we were not appointed statutory auditors of the company or its branches as required under section 139(1) read with section 143(8) of the companies Act, 2013 (CA-2013) in the AGM of the company and no such resolution was passed in the AGM of the dhfl, ... By giving any nomenclature apple will not become mango, and therefore various regulations which a statutory auditor has to follow does not apply to this professional assignment”*. He further states that *“Our appointment was for specific certification, as explained above, and I have followed all required auditing practices to do that job. For appointing and getting any verification and certification done, there does not have any prescribed rules or method in CA-2013 so no rule was flouted. Section 143(8) referred to auditors so appointed u/s 139 and not any one with whatever nomenclature they may be called as explained above hence there is no statutory obligation however I have done full justice to specific job given to me and there are no fraud or misappropriation in those branches”*.
17. We have examined the replies of the EP. We find that as mentioned in para 15 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. The admission of the EP that he was not a Statutory Auditor and that the nomenclature has no relevance in determining his statutory responsibilities shows the absence of professional behaviour and gross negligence on his part. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession³. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as a “specific certification”.

² As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

³ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

18. The below documents evidence that the EP accepted the subject matter audit assignment, acted and called himself as “Statutory Auditor for the Branches” of DHFL until an SCN was issued to him by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as " <i>Statutory Auditor for the branches</i> " at a " <i>Statutory Audit Fees</i> " of ₹1,30,000/-
2	Acceptance Letter	11.09.2017	Signed by Audit Firm accepting appointment as " <i>Branch Statutory Auditor</i> "
3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that " <i>Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors...</i> "
4	Confirmation letters issued to CAS	11.09.2017	EP confirms to CAS that " <i>we are aware that (i) the financial information of the branches for the...year ended 31st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for you report on your audit of the financial statements of the Company</i> ".
5	Independent Branch Auditor's Report	Various dates for six branches	EP certifies under " <i>Auditor's Responsibility</i> " that " <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we</i>

			<i>comply with ethical requirements and plan and perform the audit to obtain reasonable assurance” and also certified the “true and fair view of the Branch as at 31st March 2018”.</i>
6	Branch’s Financial Information Summary Memorandum	05.04.2018	EP certifies that <i>“In our opinion, based on our audit, the financial information...as of 31st March, 2018 and for the year ended gives a true and fair view”.</i>
7	EP’s communication to NFRA in response to NFRA letter seeking Audit File	23.09.2022	States that <i>“For the Financial Year 2017-18, I was appointed as the Statutory Auditor of the following branches” and “During our Audit...we have... submitted the Statutory Branch Auditors Report as per format required by the Central Auditor and the company”</i>

Besides the above, the EP prepared a report titled *“Independent Branch Auditors’ Report”* on the accounts of the branch examined by him and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 of Companies (Audit and Auditors) Rules, 2014. Thus, the contention of the EP that the subject matter engagement was a “specific certification” assignment cannot be accepted.

19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁴ in respect of such appointment have been duly complied with.
20. The ICAI Code of Ethics, 2009 makes it clear that *“Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word “ascertain” means “to find out for certain”. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to*

⁴ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

whether the Company has, in fact, complied with the provisions of the above sections". It is evidenced by the instances listed in the Table above, the EP's documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit. In FY 2015-16, the AGM specifically resolved to appoint separate Branch Statutory auditors and the Company's Auditors while in 2017-18 there was only one statutory auditor, i.e., CAS, for the Company and all its branches. It is thus evident that the EP, without even being aware of the change in mandate, continued his purported role as statutory auditor and issued the reports accordingly, but on receipt of the SCN, the EP tried to cover up the lapses by taking the plea that the audit was not a statutory audit.

21. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, EP's acceptance vide letter dated 11.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the six Branches of DHFL, including the report required under CARO 2016, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
22. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁵. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

⁵ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

23. Notwithstanding our finding in Part I above that the appointment of CA D N Chaturvedi was not as per the provisions of the Law, we now discuss the non-compliance by CA D N Chaturvedi with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

24. The EP was charged with non-compliance with SA 210⁶ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁷ as well. SA 210⁸ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

⁶ SA 210, Agreeing the Terms of Audit Engagements.

⁷ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁸ Para 9, 10 and 11 of SA 210

25. The EP did not provide any specific replies to the charges. Instead in his four-page reply he submitted the contentions as noted in para 16 above and stated that *“We have already submitted all copies of documentations of work done which is not limited to providing our reports and certificates alone, a deeper study of our documentations will prove that commensurate to our required job, we have done full justice”*. In the absence of any explanations and specific replies to the charges we examined in detail the audit file submitted by the EP and conclude as follows.
26. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter⁹ (as prescribed by SA 210) was not found to have been issued by EP. Paragraph 13 of SA 210 requires an assessment from the auditor of whether circumstances require the terms of the audit engagement to be revised and whether there is a need to remind the entity of the existing terms. There is no such assessment documented. In fact, between the financial years 2015-16 and 2017-18, the circumstances changed with respect to the scope of the engagement. In 2015-16, the AGM resolved to appoint separate auditors for the company and branches, while in subsequent years only one auditor was appointed for the company including all its branches. The EP failed to notice this critical change. The EP’s response above shows a flawed understanding of the scope of SA 210.
27. We conclude that EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 24 above regarding non-compliance with SA 200 and SA 210 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230¹⁰. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. In the absence of any explanations and specific replies to the charges we examined in detail the audit file submitted by the EP and conclude as follows.

⁹ The sample engagement letter provided in appendix I of SA 210 may be referred.

¹⁰ SA 230 – Audit Documentation

30. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by Para 8 of SA 230, documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Paragraph 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
35. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹¹)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹²)
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)

¹¹ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment

¹² Sa 320, Materiality in Planning and Performing an Audit
Order in the Matter of Branch Audits of DHFL for FY 2017-18

- f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - h. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - i. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
36. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 regarding non-compliance with SA 230 stand established.
37. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue which strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review...the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹³ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion

¹³ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements
Order in the Matter of Branch Audits of DHFL for FY 2017-18

expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁴.

39. In the absence of any explanations and specific replies to the charges we examined in detail the audit file submitted by the EP and concluded as follows.
40. The EP has not determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. However, the EP issued an unmodified opinion without complying with the requirements of SA 700.
41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 38 regarding non-compliance with SA 700 stand proved.

Non-compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁶ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - d. Para 5, 6, 8, 14 & 15 of SA 450¹⁷ absent the evaluation of identified misstatements and uncorrected misstatements.
 - e. Para 6 & 9 of SA 500¹⁸ in not designing and performing audit procedures to obtain sufficient appropriate audit evidence and not evaluate the reliability of information produced by the company.
 - f. Non-compliance with para 5, 6 and 8 of SA 510 relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - g. Para 6 of SA 520¹⁹ relating to design and performance of analytical procedures.

¹⁴ Para 11 of SA 700

¹⁵ SA 300, planning an Audit of Financial Statements.

¹⁶ SA 330, The Auditor's Responses to Assessed Risks

¹⁷ SA 450, Evaluation of Misstatements Identified during the Audit

¹⁸ SA 500, Audit Evidence

¹⁹ SA 520, Analytical Procedures

- h. Para 4, 6, 7, 8 & 9 of SA 530²⁰ relating to the determination of sample design, sample size and required audit procedures.
 - i. Para 8, 9 & 10 of SA 580²¹ regarding obtaining written representations from the management about their responsibilities.
43. In the absence of any explanations and specific replies to the charges, in the absence of any evidence in the audit file, and for the reasons stated in Para 30 to 35 above regarding audit documentation, we conclude that the EP failed to comply with the above requirements of the SAs.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

44. Given the above-mentioned actions and omissions, it is established that CA D N Chaturvedi did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP D N Chaturvedi as contained under the Articles of Charges in the SCN are established.
- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
 - b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
 - c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
 - d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

²⁰ SA 530, Audit Sampling

²¹ SA 580, Written Representations

Thus, we find that EP D N Chaturvedi committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

45. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
46. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
47. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²² in the larger public interest.
48. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
49. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA D N Chaturvedi right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA D N Chaturvedi has not adhered to the Standards on Auditing and the provisions of the law.
50. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
51. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we,

²² As defined in Rule 3 of NFRA Rules, 2018

in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:

- i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA D N Chaturvedi;
- ii. CA D N Chaturvedi is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

52. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

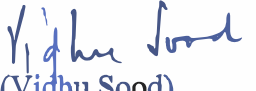
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

To,
CA D N Chaturvedi,
ICAI Membership No - 012840,
Partner, D N Chaturvedi & Co,
Chartered Accountants,
ICAI Firm Registration Number: 000183C
23-25 New Sujata, Juhu Tara Road
Santacruz (W), Mumbai -400049.
Email: dn.chaturvedi12840@gmail.com

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 44/2023

Date: 29.09.2023

ORDER

In the matter of CA Vijay Singh Pamecha, ICAI Membership No. 071374 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 07.12.2022, issued to CA Vijay Singh Pamecha, partner of M/s Vijay Singh Pamecha & Company, (ICAI Firm Registration No: 002343C), Mandsaur, M.P., who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 071374) and was the Engagement Partner (EP) for the statutory audit of twenty branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Vijay Singh Pamecha for his role as the Engagement Partner (EP) in the audit of twenty branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Vijay Singh Pamecha, who was the EP for the audit of twenty of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Vijay Singh Pamecha accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Vijay Singh Pamecha not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment, the Branch Audit performed by CA Vijay Singh Pamecha was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Vijay Singh Pamecha, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation to support his audit opinion that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Vijay Singh Pamecha a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the Statutory Auditor CAS. Accordingly, NFRA suo motu called for the audit files from the EPs who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Vijay Singh Pamecha, to whom this Order relates and who acted as the branch auditor for the twenty branches of DHFL viz. Bhopal, Bhopal-Bank street, Bhopal-CBI Jnt. Synd, Indore-RPU, Indore-Royal Gold Complex, Indore, Jaipur-RPU, Jaipur-MI Road, Jaipur-Vaishali, Itarsi, Khargone, Jabalpur, Gwalior, Sriganaganagar, Bikaner, Jodhpur, Ajmer, Bhilwara, Kota and Udaipur.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA's investigations, CA Vijay Singh Pamecha was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. However, the EP submitted the Audit

¹ As defined in para 6 of SA 230

File along with other information in respect of the twenty branches for FY 2017-18 on 08.09.2022.

10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Vijay Singh Pamecha, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of twenty branches of DHFL for the FY 2017-18. In the SCN, the EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply by 05.01.2023 but was granted extension of time following a request vide email dated 02.01.2023. The EP submitted his reply on 31.01.2023.
12. The EP did not avail of the opportunity for a personal hearing before the Executive Body (EB) of NFRA. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, he also did

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.

16. In his written reply to this charge, the EP submitted that *“my audit was in the nature of a special and limited audit... The audit report was addressed to the Statutory Auditors Chaturvedi & Shah (CAS) who were also appointed as branch auditors... branch audit was, in fact a special/ Component Audit as mentioned in SA 600” and cited para 7 and 8 of SA 600*. The EP also stated that *“I addressed the Audit report and other documents to the Statutory Auditor and not to the shareholders... nomenclature “Statutory Auditor for the Branch” used by the Company in the appointment letter was a misnomer... I was not an auditor whose appointment was made under section 139 of the Companies Act, 2013”*. Later in the reply, the EP also submitted that *“our engagement cannot be termed as an audit engagement since it was limited to few items that was categorically mentioned in the Scope of work”*.
17. We have examined the replies of the EP. We find that as mentioned in para 15 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. Despite this, the contention of the EP that he was not a Statutory Auditor shows the absence of professional behaviour and gross negligence. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession³. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as a *“specific and limited audit”*.
18. The below documents evidence that the EP accepted the subject matter audit assignment, acted and called himself as “Statutory Auditor for the Branches” of DHFL until an SCN was issued to him by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as "Statutory Auditor for the branches" at a "Statutory Audit Fees" of ₹4,30,000/-
2	Acceptance Letter	07.09.2017	Signed by Audit Firm accepting appointment as "Branch Statutory Auditor"
3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that <i>“Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”</i>
4	Confirmation letter(s) issued to CAS	07.09.2017	The EP confirms to CAS that <i>“we are aware that (i) the financial information of the branches for the...year ended 31st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31st</i>

³ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

			<i>March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for you report on your audit of the financial statements of the Company”.</i>
5	Independent Auditor’s Report	Branch Various dates for twenty branches	Covering letter of various “ <i>Independent Branch Auditor’s Report</i> ” is titled as “ <i>Statutory Audit Report F.Y. 2017-18 Mis Dewan Housing Finance Corporation Ltd.</i> ” by the EP and in the report, the EP certifies that “ <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance</i> ” and also certified the “ <i>true and fair view of the Branch as at 31st March 2018</i> ”.
6	Branch’s Information Memorandum	Financial Summary 05.04.2018	EP certifies that “ <i>In our opinion, based on our audit, the financial information...as of 31st March, 2018 and for the year ended gives a true and fair view</i> ”.

19. Besides the above, the EP prepared a report titled “Independent Branch Auditors’ Report” on the “accounts of the branch” examined by him and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 Companies (Audit and Auditors) Rules, 2014. Further, these branch audit reports are clearly referred to by Company’s Statutory Auditor (CAS) in its report to the members of the Company in line with requirement Section 143(3)(c), Section 143(8) read with Rule 12 mentioned above. Thus, the contention of the EP that the subject matter engagement was a “*special and limited audit*” assignment cannot be accepted.
20. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956

(equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁴ in respect of such appointment have been duly complied with.

21. The ICAI Code of Ethics, 2009 makes it clear that *"Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word 'ascertain' means 'to find out for certain'. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections"*. It is evidenced by the instances listed in the Table above, the EP's documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit.
22. As per Section 143 (8) of the Act, the appointment of Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment, EP's acceptance vide letter dated 07.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the twenty Branches of DHFL, including the report required under CARO 2016, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
23. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁵. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

⁴ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

⁵ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

24. Notwithstanding our finding in Part I above that the appointment of CA Vijay Singh Pamecha was not as per the provisions of the Law, we now discuss the non-compliance by CA Vijay Singh Pamecha with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable⁶ in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

25. The EP was charged with non-compliance with SA 210⁷ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁸ as well. SA 210⁹ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
26. In his reply, the EP submitted that *"it was not a full-fledged audit envisaged under companies act...therefore, strict compliances of SA 210 is not envisaged for"*. We examined in detail the audit file submitted by the EP and conclude as follows.
27. The appointment letter makes it clear that *"Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors..."* Thus, the subject matter assignment was not limited to "Statutory Branch Audit", but additionally included verification of certain specific areas. In such a scenario, it was even more important for the

⁶ Section 143(9) and (10) of the Companies Act mandates SAs for every auditor.

⁷ SA 210, Agreeing the Terms of Audit Engagements.

⁸ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁹ Para 9, 10 and 11 of SA 210

auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.

28. In fact, between the financial years 2015-16 and 2017-18, the circumstances changed with respect to the scope of the engagement. In 2015-16, the AGM resolved to appoint separate auditors for the company and branches, while in subsequent years only one auditor was appointed for the company including all its branches. This calls for the application of Para 13 of SA 210 which requires an assessment from the auditor of whether circumstances require the terms of the audit engagement to be revised and whether there is a need to remind the entity of the existing terms. There is no such assessment document. The EP failed to notice this critical change.
29. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework¹⁰. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The EP's response above shows a flawed understanding of the scope of SA 210.
30. We conclude that EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 25 above regarding non-compliance with SA 200 and SA 210 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

31. The EP was charged with non-compliance with SA 230¹¹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
32. The EP stated without any supporting evidence that "*we had adequately documented*".
33. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by Paragraph 8 of SA 230, documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
34. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
35. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only

¹⁰ The sample engagement letter provided in appendix I of SA 210 may be referred.

¹¹ SA 230 – Audit Documentation

on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.

36. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
37. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record the identifying characteristics of the specific items or matters tested.
38. The Audit File does not even contain the basic documentation such as:
 - a. Understanding the branch's internal controls and responsibilities at various levels in the branch (refer to SA 315¹²)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300. The Audit Plan available in the Audit File does not comply with SA 300 as it is made without first complying with SA 300, SA 315 and SA 330 viz. (1) considering results of preliminary engagement activities¹³, (2) planning nature, timing and extent of planned risk assessment procedures¹⁴, etc.
 - c. Determination of materiality levels (refer to SA 320¹⁵): The EP submitted that “*no specific materiality has been taken...As per SA 320 (Revised), determination of materiality has to be applied to the financial statements as a whole and hence to be determined by the statutory auditor.*” The EP’s contention cannot be accepted since materiality needs to be decided at the assertion level as well and there is no determination of materiality by the EP in the Audit File.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)
 - f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. Proof of verification of trial balance items (substantive audit procedures)
39. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 31 regarding non-compliance with SA 230 stand established.
40. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a

¹² SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹³ Para 7 of SA 300

¹⁴ Para 8 of SA 300

¹⁵ SA 320, Materiality in Planning and Performing an Audit

serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

41. The EP was charged with non-compliance with SA 700. As per SA 700¹⁶ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. In the Annexures to the audit report, the EP has, at several places, noted that for a large number of loan files reviewed *“Docket not available at branch. So same can't be verified”*. Still, the EP issued an unmodified opinion. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁷.
42. In his response, the EP submitted that *“It is implied that considering the remark column which is explicit column in certificate format, all other loan borrower comply with NHS guidelines. Hence, no false reporting neither certificate has been issued”*. We examined in detail the audit file submitted by the EP and concluded as follows.
43. There is no determination of any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. In view of the noted absence of loan dockets the assertion of the existence of these loans was required to be ensured through additional procedures as it may constitute a material misstatement in the Branch books, the impact of which is not documented by the EP. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Despite noting the absence of loan dockets and without performing adequate procedures to comply with the SAs the EP issued an unmodified opinion without complying with the requirements of SA 700.
44. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls and for reasons stated in para 43 above, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 41 regarding non-compliance with SA 700 stand proved.
45. We also note that such lapses relating to the verification of documents during the audit are viewed seriously by audit regulators. A Chartered Accountant, in the audit of a Bank branch, did not verify the securities for debts and was held guilty of professional misconduct of absence of due

¹⁶ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁷ Para 11 of SA 700

diligence and gross negligence. (A.N.Kapur -vs.- R.N. Budhiraja; Page- 374 of Vol. IX (1) of the Disciplinary Cases- ICAI Council's decision dated 11th and 12th April 2008).

Non-compliance with other SAs

46. The EP was charged with non-compliance with the following provisions of SAs:

- a. Para 6, 7, 8, 9 & 10 of SA 300¹⁸ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that *"compliances of said clauses in totality have to be done when it is an audit engagement of overall financial statements of the Company"* and referred to the audit plan available in the Audit File. For reasons stated in para 24 above, EP's contention cannot be accepted. Besides, the Audit Plan available in the Audit File does not comply SA 300 as it is made without first complying with SA 300, SA 315 and SA 330 viz. (1) considering results of preliminary engagement activities¹⁹, (2) planning nature, timing and extent of planned risk assessment procedures²⁰, etc.
- b. Para 5, 6 & 11 of SA 315 as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that *"SA will be applicable when the reporting is to be done on financial statement level which is not the case in present engagement, we have been appointed for performing limited scope and deliverables"*. As explained above, SAs are applicable in a branch audit as well. Thus, the EP's contention cannot be accepted.
- c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. The EP submitted that *"there were no items where materiality needs to be determined as we have performed the work as per the defined scope given by the company"*. The EP's contention cannot be accepted since there is no materiality determined as required by SA 320, for instance, for the verification of loan accounts.
- d. Para 5, 6, 8, 14 & 15 of SA 450²¹ absent the evaluation of identified misstatements and uncorrected misstatements. The EP submitted that *"adequately spelt out in our summary memorandum that there were no misstatements or un-corrected misstatements"*. However, in the absence of any working papers addressing the observations noted by the EP in the loan files (as detailed in para 41 above) and in view of the mandatory documentation requirements of SA 450, the EP's claims cannot be accepted.
- e. Para 6 & 9 of SA 500²² in not designing and performing audit procedures to obtain sufficient appropriate audit evidence and not evaluate the reliability of information produced by the company. The EP submitted that *"there was no need to see the completeness as we are not issuing the opinion on overall financial statements of the Company and neither on overall branch portfolio"*. The EP's contention cannot be accepted since in his *"Independent Branch Auditors' Report"* and *"Branch Auditor Audit of Branch's Financial Information Summary Memorandum – As a whole"*, the EP certified *"true and fair view of the branch"* and that *"the financial information for branches stated above...gives a true and fair view"* respectively.
- f. Non-compliance with para 5, 6 and 8 of SA 510 relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening

¹⁸ SA 300, planning an Audit of Financial Statements.

¹⁹ Para 7 of SA 300

²⁰ Para 8 of SA 300

²¹ SA 450, Evaluation of Misstatements Identified during the Audit

²² SA 500, Audit Evidence

Balances. The EP submitted that *“our engagement was not that of audit of overall financial statements of the Branch... We had accordingly performed our work”*. As explained above, the SAs are applicable in a branch audit as well and the EP in his report certified the *“true and fair view of the Branch as a whole”*. Hence, the EP’s contention cannot be accepted.

- g. Para 6 of SA 520²³ relating to the design and performance of analytical procedures. The EP submitted that *“analytical procedures performance are more relevant at company financial statement level rather at individual branch level.”* The EP’s contention cannot be accepted since in his "Independent Branch Auditors' Report" the EP noted a positive overall conclusion on the "true and fair view of the branch" in line with the proviso to S.143(8) of the Act without performing audit procedures required by SA 520.
 - h. Para 4, 6, 7, 8 & 9 of SA 530²⁴ relating to the determination of sample design, sample size and required audit procedures.
 - i. Para 8, 9 & 10 of SA 580²⁵ regarding obtaining written representations from the management about their responsibilities. The EP submitted that *“written representation from management about their responsibilities would be relevant at Head Office rather to be taken at branch level”*. As explained above, the SAs are applicable in a branch audit as well. Hence, the EP’s contention cannot be accepted.
47. For the reasons stated in Para 33 to 39 above regarding audit documentation and Para 46 above, we conclude that the EP failed to comply with the above requirements of the SAs.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

48. Given the above-mentioned actions and omissions, it is established that CA Vijay Singh Pamecha did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Vijay Singh Pamecha as contained under the Articles of Charges in the SCN are established.
- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part D-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
 - b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts D-I and D-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
 - c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part D-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
 - d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and

²³ SA 520, Analytical Procedures

²⁴ SA 530, Audit Sampling

²⁵ SA 580, Written Representations

committed the lapses and omissions as explained and proved in part D-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Vijay Singh Pamecha committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act, 2013 as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

49. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
50. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
51. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²⁶ in the larger public interest.
52. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
53. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Vijay Singh Pamecha right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Vijay Singh Pamecha has not adhered to the Standards on Auditing and the provisions of the law.
54. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
55. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Vijay Singh Pamecha;

²⁶ As defined in Rule 3 of NFRA Rules, 2018

- ii. CA Vijay Singh Pamecha is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

56. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

To,
CA Vijay Singh Pamecha,
ICAI Membership No - 071374,
Partner, Vijay Singh Pamecha & Company,
Chartered Accountants,
ICAI Firm Registration Number: 002343C
Saurabh Auto Centre Premises,
Opposite Civil Hospital,
Mandsaur – 458001, M.P.
Email: vspca.1957@yahoo.in
vspca_mds@rediffmail.com

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 51/2023

Date: 29.09.2023

ORDER

In the matter of CA Sunil R. Juman, ICAI Membership No. 049586 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA Sunil R. Juman, proprietor at Juman & Co, Chartered Accountants (Audit Firm), (ICAI Firm Registration No: 135870W), who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 049586) and was the Engagement Partner (EP) for the statutory audit of four branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Sunil R. Juman for his role as the Engagement Partner (EP) in the audit of four branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Sunil R. Juman, who was the EP for the audit of four of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Sunil R. Juman accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Sunil R. Juman not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.
3. Notwithstanding the defective appointment, the Branch Audit performed by CA Sunil R. Juman was investigated by NFRA from the standpoint of compliance with the applicable Standards on

Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Sunil R. Jumani, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation and displayed a flawed understanding of standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.

4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Sunil R. Jumani a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Sunil R. Jumani, to whom this Order relates and who acted as the branch auditor for the four branches of DHFL at Karjat, Badlapur, Ulhasnagar and Ambernath.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA's investigations, CA Sunil R. Jumani was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The EP submitted the Audit File along with other information in respect of the four branches for FY 2017-18 on 20.08.2022.

¹ As defined in para 6 of SA 230

10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Sunil R. Jumani on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of four branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 18.11.2022 and he submitted his reply on 17.11.2022. The EP did not avail of the opportunity of a personal hearing. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

12. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

13. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
14. On examination of the Audit File, we observe that despite a specific requirement in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
15. In response, the EP submitted that *“Regarding Resolution for appointment by members in AGM, I was explained by the Management that...the board has authority for appointing branch auditors in consultation with the statutory auditors...and secretarial compliance under various sections of Companies Act was done by independent professional Practicing Company Secretary, and as I was holding certificate of full time Practice, the appointment was accepted as per section 143(8)*

of Companies Act...As the reports of branch auditors in the form of certified trial balance was to be incorporated in the final statutory audit report to be issued by the statutory auditor the branch audit was referred. as statutory audit which could differentiate it with Internal and other audits which are not incorporated in the statutory audit report....total 22 days were planned and actually devoted for the audit including limited review report Therefore adequate planning using professional judgment was done."

16. On examination of the replies of the EP, we find that the appointment letter acknowledged by the EP and the "Independent Branch Auditors' Report" issued by him clearly described the engagement as a Branch Statutory Audit. The EP also admitted that the branch audit was carried out under section 143(8) of the Act. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
17. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct)² a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013) in respect of such appointment have been duly complied with.
18. The contention of the EP that *"the secretarial compliance was certified as proper by independent Practicing Company Secretary...who has also given certificate that the Company has complied with all requirements of Companies Act 2013,"* cannot be accepted since the ICAI Code of Ethics, 2009 makes it clear that *"Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections"*.
19. As per Section 143 (8) of the Act, the appointment of Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order for 2017-18, EP's acceptance vide letter dated 28.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the four Branches of DHFL, including the report required under CARO 2016, describing the

² As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

20. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports³. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act.. Therefore, we find that the charges in paras 13 and 14 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

21. Notwithstanding our finding in Part I above that the appointment of CA Sunil R. Jumani was not as per the provisions of the Law, we now discuss the non-compliance by CA Sunil R. Jumani with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable⁴ in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

³ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

⁴ Section 143(9) and (10) mandates that SAs shall be complied with by every auditor.

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

22. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
23. The EP in his reply submitted that *“I was re-appointed, so the scope of audit was almost known as per last year only... Since all terms were clearly defined such as reports required, sample size of randomly selected loan files, top 15 loans disbursed during the year, top 20 outstanding to be verified, 25 employees reimbursement to be verified with supporting, statutory audit reports to be issued, tax audit reports to be issued, limited review reports to be issued along with time limit of submission of each reports etc was very clearly mentioned in the Engagement letter received from the Company... therefore no separate letter was issued”*.
24. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a detailed description of the responsibilities of the auditor and the management and the applicable financial reporting framework⁸. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The terms given by the company cannot substitute the responsibility cast on the EP by SA 210, as prescribed under the Act. The EP’s response above shows a flawed understanding of the scope of SA 210.
25. The appointment letter also makes it clear that *“Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”* Thus, the subject matter assignment was not only limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter, as mandated by SA 210, before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.
26. Besides, between 2015-16 and 2016-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company’s auditor, while in subsequent years, there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210.
27. We conclude that EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 22 above regarding non-compliance with SA 210 & SA 200 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230⁹. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. The EP submitted that *“as the entire audit was conducted single handedly by me, the documentation is lesser in the audit file...documentation was kept to the extent of availability and materiality.”* In the absence of any explanations and specific replies to the charges, we examined in detail the audit file submitted by the EP and conclude as follows.
30. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by Paragraph 8 of SA 230, documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor’s basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.
33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or

⁹ SA 230 – Audit Documentation

matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.

35. The Audit File does not contain the basic documentation such as:

- a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹⁰): The EP submitted that in his audit file, *"it is mentioned that visited personally on 04.09.2017 at Thane ~RPU office and met Chief Accountant and in-charge ... to understand branch operations, internal controls and various responsibilities at various levels and changes in environment as compared to previous year"*. The contention of the EP is not acceptable in the absence of a specific requirement of para 32 which requires documentation, inter alia, of key elements of the aspects of the entity and its environment, of each of the internal control components.
- b. Audit plan made after understanding the branch operations in accordance with SA 300: EP submitted that in his audit file *"audit plan was carefully made after identifying the key areas and doing risk assessment."* The contention of the EP is not acceptable since the *"Audit Plan"* does not give a description of the nature, timing and extent of planned risk assessment procedures, further audit procedures and other audit procedures to be carried out so that the engagement complies with SAs¹¹.
- c. Determination of materiality levels (refer to SA 320¹²): EP submitted that *"At each stage of audit materiality was seen with respect to the amount involved compared to the volume and nature of business"*. Para 5 of SA 320 makes it clear that "The concept of materiality is applied by the auditor both in planning and performing the audit and in evaluating the effect of identified misstatements on the audit and of uncorrected misstatements, if any, on the financial statements and in forming the opinion in the auditor's report". Mandatory documentation requirements of SA 320 include the factors considered in the determination of materiality and materiality for the financial statements as a whole, the materiality level or levels for particular classes of transactions, account balances or disclosures, performance materiality and any revision of the materiality amounts as the audit progress. The audit documentation in the present case did not contain any of these details and hence the replies of the EP are not acceptable.
- d. Understanding of the IT system controls (refer to SA 315): EP submitted that *"I T system was understood before the start of the audit and regularly during the audit"*. The contention of the EP is not acceptable in the absence of mandatory documentation requirements of SA 315¹³.
- e. Proof of verification of trial balance items, including assets (substantive audit procedures): EP submitted that *"Trial balance items were verified from the system of the company...for the items which could not be verified at branch level were reported in audit report ...fixed assets at branch level were not material as mostly branch offices were rented and fixed assets at branch were mostly in the nature of Computers, Air conditioners, furniture & office equipments which were mainly out of opening balance and some additions made during the year were verified with bills along with details of physical verification by branch incharge"*. The contention of the EP is not acceptable in the absence of any supporting evidence in the Audit File.

36. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the above SAs are not met. The above facts are evidence that the EP did not follow

¹⁰ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment.

¹¹ Para 8 of SA 300, Planning an Audit of Financial Statements

¹² SA 320, Materiality in Planning and Performing an Audit

¹³ Para 32 (b) of SA 315

the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 regarding non-compliance with SA 230 stand established.

37. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹⁴ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since, the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁵.
39. The EP submitted that *“As per audit procedures and verifications. performed, using professional judgment and Skepticism there was no instances of fraud, risk of material misstatement or errors were found hence the audit report on trial balance was given”*. We examined in detail the audit file and the reply to the SCN submitted by the EP and conclude as follows.
40. The EP has not even determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon in several areas of audit, as explained in this Order, are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. However, the EP issued an opinion without complying with the requirements of SA 700.
41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of misstatements and the test of controls, we observe that the unmodified

¹⁴ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁵ Para 11 of SA 700

opinion issued by EP is baseless. Hence, the charges in para 36 regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:

- a. Para 6, 7, 8, 9 & 10 of SA 300 as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that *“Audit plan was made, as such the strategy was formed and audit plan was developed which was constantly reviewed and strictly followed during the audit. As regards to para 10 of SA 300 as the entire Audit was personally conducted by me without any help of any Article clerk/Assistant, there was no need to prepare plan for supervision and review of work done by the Audit team.”* The contention of EP cannot be accepted for reasons stated in para 35 b above.
- b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁶ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.: The EP submitted that *“Trial balance was reviewed thoroughly for any material misstatement...I have mentioned in the...memorandum that concurrent audit covering 100% audit of each loan file & expenses should be done by independent outside professional”*. The contention of EP makes it clear that no risk assessment procedures were carried out by him.
- c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof: EP submitted that *“while establishing the overall audit strategy have determined the materiality for the financial transaction and identified one class of transaction i.e. loan file verification at the branch level which I have mentioned in my audit plan”*. The contention of EP cannot be accepted for reasons stated in para 35 c above.
- d. Para 6 of SA 520¹⁷ relating to design and performance of analytical procedures: EP submitted that *“analytical procedure at the end of the audit were performed”*. The replies are not accepted since there is no evidence in the Audit File that EP performed any such procedures.
- e. Para 4, 6, 7, 8 & 9 of SA 530¹⁸ relating to the determination of sample design, sample size and required audit procedures: EP submitted that *“as per the terms of Engagement letter...sample were selected...along with this...other items of as per materiality and importance were verified.”* On examination of further documents, we find that there is no evidence that any of the related procedures as detailed in SA 530 have been complied with by the EP, while the audit opinion is based on sample testing. In the absence of any evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it, the contentions of the EP are not accepted.

43. In view of the reasons stated above, we conclude that the EP failed to comply with the above requirements of the SAs.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

44. Given the above-mentioned actions and omissions, it is established that CA Sunil R. Jumani did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while

¹⁶ SA 330, The Auditor's Responses to Assessed Risks

¹⁷ SA 520, Analytical Procedures

¹⁸ SA 530, Audit Sampling

accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Sunil R. Jumaní as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Sunil R. Jumaní committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

45. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
46. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
47. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities¹⁹ in the larger public interest.
48. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

¹⁹ As defined in Rule 3 of NFRA Rules 2018

49. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Sunil R. Jumaní right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Sunil R. Jumaní has not adhered to the Standards on Auditing and the provisions of the law.
50. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
51. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved, considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
- Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Sunil R. Jumaní;
 - CA Sunil R. Jumaní is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
52. This order will become effective after 30 days from the date of issue of this order.

Sd/-
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Sunil R. Jumaní,
ICAI Membership No - 049586,
Jumaní & Co, Chartered Accountants,
3B-403, Siddhivinayak CHS Ltd.,
Asha Nagar, Thakur Complex,
Kandivali (East), Mumbai – 400101
Email: suniljum@hotmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 50/2023

Date: 29.09.2023

ORDER

In the matter of CA Shrishail Veeranna Mantgol, ICAI Membership No. 224907 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 07.12.2022, issued to CA Shrishail Veeranna Mantgol, Partner of M/s Veeranna G. Mantgol & Co. (Audit Firm), (ICAI Firm Registration No: 04580S), who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 224907) and was the Engagement Partner (EP) for the statutory audit of one branch of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Shrishail Veeranna Mantgol for his role as the Engagement Partner (EP) in the audit of one branch of DHFL. DHFL, a housing finance company listed on both NSE and BSE and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the "Independent Branch Auditors' Report" for nearly 250 branches. The Company's Statutory Auditor, viz, CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Shrishail Veeranna Mantgol, who was the EP for the audit of one of the 250 branches of DHFL.
2. NFRA's investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Shrishail Veeranna Mantgol accepted the appointment, portrayed himself as "Branch Statutory Auditor" in all communications with the Company and CAS, and issued an "Independent Branch Auditor's Report". By doing so CA Shrishail Veeranna Mantgol not only accepted a legally invalid

appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding the defective appointment, the Branch Audit performed by CA Shrishail Veeranna Mantgol was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Shrishail Veeranna Mantgol, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Shrishail Veeranna Mantgol a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Shrishail Veeranna Mantgol, to whom this Order relates and who acted as the branch auditor for the one branch of DHFL at Gulbarga (Kalburgi).
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other

¹ As defined in para 6 of SA 230

applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.

9. As part of NFRA's investigations, CA Shrishail Veeranna Mantgol was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The Audit File along with other information in respect of the one branch for FY 2017-18 were submitted by the Audit Firm on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Shrishail Veeranna Mantgol on 07.12.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of one branch of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 05.01.2023. The EP submitted the reply on 05.01.2023.
12. In the reply to the SCN, the EP requested for a personal hearing before the Executive Body (EB) of NFRA. Accordingly, vide letter dated 02.03.2023 sent via email, the EP was granted an opportunity to be heard. No response was received from the EP. However, in the interest of natural justice, a reminder email was sent on 12.07.2023, followed by telephonic confirmation, to know the willingness to avail an opportunity to be heard by the EB. However, the EP did not respond to the reminder email as well. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.
 - I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act**
14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as "Statutory Auditor for the branches" of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.

15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. Thus, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP stated that the appointment was *“accepted in good faith...branch audit report was addressed to the Statutory Auditors and not to the members of the Company...branch audit was, in fact a special/Component Audit/Sub-letting as mentioned in SA 600...the scope and methodology of the branch audit ...were specified...by the management”* and that the nomenclature *“Statutory Auditor for the Branch”* was a *“misnomer”*. EP stated that we were not appointed under Section 139 of the Companies Act, 2013 and also referred to the *“Doctrine of Indoor Management”*.
17. On examination of the replies of the EP, the appointment letter acknowledged by the audit firm and the *“Independent Branch Auditors’ Report”* issued by the EP clearly described the engagement as a Branch Statutory Audit. In terms of Section 143(8) read with Rule 12³, the scope of the branch auditor is as contained in S.143(1) to S.143(4). However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs. The contention of the EP that he was not a Statutory Auditor shows the absence of professional behaviour and gross negligence. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession⁴. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as a *“misnomer”*.
18. The below documents evidence that the EP accepted the subject matter audit assignment, acted in good faith as “Statutory Auditor for the Branches” of DHFL until an SCN was issued by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as "Statutory Auditor for the branches" at a "Statutory Audit Fees" of ₹25,000/-
2	Acceptance Letter	21.09.2017	Signed by Audit Firm accepting appointment as "Branch Statutory Auditor"

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

³ Duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor

⁴ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court)

3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that “ <i>Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors...</i> ” The subject matter assignment was not only limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas.
4	Confirmation letters issued to CAS	03.04.2018	The EP confirms to CAS that “ <i>we are aware that (i) the financial information of the branches for the...year ended 31st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for your report on your audit of the financial statements of the Company</i> ”.
5	Independent Branch Auditor’s Report	03.04.2018 for one branch	EP certifies under “ <i>Auditor’s Responsibility</i> ” that “ <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance</i> ” and also certified the “ <i>true and fair view of the Branch as at 31st March 2018</i> ”.

6	Branch's Financial Information Summary Memorandum	03.04.2018	EP certifies that <i>"In our opinion, based on our audit, the financial information...as of 31st March, 2018 and for the year ended gives a true and fair view"</i> .
7	Working Papers in the Audit File	Part of Audit File submitted to NFRA	The working paper in the folder named <i>"Audit plan and Working papers"</i> is titled as <i>"STATUTORY AUDIT OF DEWAN HOUSING FINANCE CORPORATION LIMITED UNDER COMPANIES ACT 2013, FY 2017-18"</i> .

Besides the above, the EP prepared a report titled *"Independent Branch Auditors' Report"* on the accounts of the branch examined by her and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 "Duties and Powers of the Company's Auditor with Reference to the Audit of the Branch and the Branch Auditor" of the Act. Thus, the contention of the EP that the subject matter engagement was not a "statutory branch audit" is an afterthought and cannot be accepted.

19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct)⁵ a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013) in respect of such appointment have been duly complied with.
20. The ICAI Code of Ethics, 2009 makes it clear that *"Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word 'ascertain' means 'to find out for certain'. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections"*. As it is evidenced by the instances listed in the Table above the EP's documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit.
13. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual

⁵ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, acceptance of audit engagement by the audit firm vide letter dated 21.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the one branch of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part. The protection offered by the "Doctrine of Indoor Management" is not available in this case in view of the specific requirements of the CAs Act and SA 200. Moreover, the declaration of voting results of the resolution to ratify the appointment of CAS was available in the public domain (www.bseindia.com) well before 21.09.2017, the date on which the EP accepted the invalid appointment.

21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁶. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA Shrishail Veeranna Mantgol was not as per the provisions of the Law, we now discuss the non-compliance by CA Shrishail Veeranna Mantgol with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical*

⁶ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf>) - Last accessed 29.09.2023)

requirements and plan and perform the audit to obtain reasonable assurance". Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

23. The EP was charged with non-compliance with SA 210⁷ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁸ as well. SA 210⁹ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
24. Responding to the charges, the EP stated that *"Para 13 and A27 of SA 210 (Revised) states that a continuing auditor may decide not to send Audit Engagement Letter in case of recurring Audits. We were the auditor of the same branch in the previous year also... The reporting formats and scope of audit were mentioned in detail in the appointment letter... the detailed scope, identification of the applicable financial reporting framework, expected form and content etc. were part of Annexures II to Annexure X to the Appointment Letter"*.
25. The contention of EP is not acceptable. Between 2015-16 and 2016-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for application of para 13 of SA 210 also.
26. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework¹⁰. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The EP's response above shows a flawed understanding of the scope of SA 210.

⁷ SA 210, Agreeing the Terms of Audit Engagements.

⁸ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁹ Para 9, 10 and 11 of SA 210

¹⁰ The sample engagement letter provided in appendix I of SA 210 may be referred.

27. The appointment letter also makes it clear that *“Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”* Thus, the subject matter assignment was not only limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter to DHFL as required by SA 210 before the commencement of the audit to help avoid misunderstandings with respect to the audit and to clarify the scope, duties and responsibilities with respect to the audit, as required by SA 210.
28. The EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 24 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

29. The EP was charged with non-compliance with SA 230¹¹. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
30. Responding to the charges, the EP denied all the charges and submitted that *“we were the continuing auditor of the branch for many years, we were well aware of the common understanding regarding branch operations, internal controls accounting policies”* and referred to his *“Audit Programme”* and *“handwritten and computerised notes”*.
31. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by paragraph 8 of SA 230, documented the conclusions, nature, timing and extent of the procedures performed, as detailed below.
32. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor’s basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
33. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble

¹¹ SA 230 – Audit Documentation

the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.

34. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
35. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
36. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300. No "detailed Audit Programme" as referred to by the EP is available in the Audit File.
 - c. Understanding of the IT system controls (refer to SA 315)
 - d. Trial balance for the previous year (refer to SA 510).
 - e. Summary of the accounting policies, observations from previous audits, and inspection reports (refer to SA 315)
 - f. List of documents verified (substantive audit procedures).
 - g. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - h. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - i. KYC verification, anti-money laundering verification, security verification (substantive audit procedures) and so on.
37. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. To evidence compliance with the requirements of the SAs, it is the fundamental stipulation of SA 230 that the auditor shall assemble the audit documentation in an audit file (not multiple audit files of different years). Proper reference to the working papers maintained in the previous year's audit file shall be made in the current year's audit file, so that, the nature, timing and extent of the audit procedures performed are properly documented. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 29 above regarding non-compliance with SA 230 stand established.
38. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states "*Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was*

completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

39. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since, the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.
40. The EP denied the charges and stated that *“there was not sufficient evidence to form an adverse/modified opinion of audit”* and referred to the *“Branch Financial Information Summary Memorandum Report”* given by him.
41. The EP’s contention cannot be accepted since in the same report under *“Overall Evaluation of Misstatements”* the EP neither certified *“The unadjusted misstatements...are immaterial”* nor certified *“The unadjusted misstatements...are material”*. Irrespective of that, in the same annexure the EP certified that *“the financial information...gives a true and fair view”* which is misleading, without any basis and shows a casual approach and negligence. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the EP issued an unmodified opinion without complying with the requirements of SA 700.
42. Therefore, in the absence of an assessment of the risk of material misstatements and the test of controls and for reasons stated in para 31 to 37 regarding audit documentation and Para 41 above, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 39 above regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

43. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300 as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that being a recurring auditor, *“no need was felt to document the audit plan every year. Moreover, the audit strategy, timing, nature and methodology was clearly specified in the appointment letter itself”*. The EP’s contention cannot be accepted since SA 300 mandates the auditor to update and change the overall audit strategy and the audit plan as necessary during the course of the

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

audit¹⁴. No such updated audit plan was available in the Audit File. Besides, requirements of SA 300 viz. (1) considering the factors that, in the auditor's professional judgment, are significant in directing the engagement team's efforts, (2) considering the results of preliminary engagement activities, (3) describing the nature, timing and extent of planned risk assessment procedures, etc. were not at all considered by the EP.

- b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁵ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that "*discussions were held with branch accounts manager, branch accountant*" etc. and "*in few cases, related documents were produced before us at the time of discussion for disposal and also digital copies of documents were also produced in few instances*". The EP's contention cannot be accepted in the absence of any evidence in the audit file.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof except for noting in "*Annexure IX*" "*BRANCH AUDITOR AUDIT OF BRANCH'S FINANCIAL INFORMATION SUMMARY MEMORANDUM – AS A WHOLE*" of the audit file that "*The materiality limit set is Rs.5000/-*" and "*Analytical and other audit procedures performed setting a materiality limit of Rs.5000/-*". The EP submitted that "*materiality levels and samples for loan verification were prescribed to us. Expenses were checked by us 25% to 100% depending on the nature of expenses*". This contention cannot be accepted since there is no documentation of materiality for the loans. Also, there is no documentation of the basis of arriving at materiality and how the materiality is used in the audit.
 - d. Para 5, 6 and 8 of SA 510¹⁶ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - e. Para 6 of SA 520¹⁷ relating to the design and performance of analytical procedures.
 - f. Para 4, 6, 7, 8 & 9 of SA 530¹⁸ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that "*the sample size, design etc. were prescribed to me in the Appointment Letter and we were mandated to follow it*". The EP's contention cannot be accepted since the "*Guidelines for Statutory Audit of Branches*" issued along with the Appointment letter required the EP to verify several "random" loan accounts. However, the application of the statistical method of random sampling and the basis for the selection of the sampling method are nowhere evidenced in the Audit File.
 - g. Para 8, 9 & 10 of SA 580¹⁹ regarding obtaining written representations from the management about their responsibilities. The EP submitted that "*Notes, 3CD, Loan Report prepared and signed by the branch accountants: in the nature of written representation*". The EP's contention cannot be accepted in view of the mandatory requirement of the SA.
44. The reply of the EP that there was "*sufficient compliance*" with the SAs to the extent applicable is not acceptable in the absence of any evidence in the Audit File. The replies are also not in

¹⁴ Para 9 of SA 300

¹⁵ SA 330, The Auditor's Responses to Assessed Risks

¹⁶ SA 510, Initial Audit Engagements – Opening Balances

¹⁷ SA 520, Analytical Procedures

¹⁸ SA 530, Audit Sampling

¹⁹ SA 580, Written Representations

conformity with the SAs for the reasons stated in Para 31 to 37 related to audit documentation and Para 43 above.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

45. Given the above-mentioned actions and omissions, it is established that CA Shrishail Veeranna Mantgol did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Shrishail Veeranna Mantgol as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Shrishail Veeranna Mantgol committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

46. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
47. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
48. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²⁰ in the larger public interest.

²⁰ As defined in Rule 3 of NFRA Rules 2018

49. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
50. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Shrishail Veeranna Mantgol right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. We also conclude that despite being a qualified professional, CA Shrishail Veeranna Mantgol has not adhered to the Standards on Auditing and the provisions of the law.
51. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
52. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
- Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Shrishail Veeranna Mantgol;
 - CA Shrishail Veeranna Mantgol is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
53. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)

Secretary
सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Shrishail Veeranna Mantgol,
ICAI Membership No - 224907,
Partner, M/s Veeranna G. Mantgol & Co.,
Chartered Accountants,
(ICAI Firm Registration No: 04580S)
H No.-1-26/3-A, Vivekanand Nagar,
Opposite Modi Hospital, Kalaburagi – 585102
Email: vgmantgol@yahoo.co.in

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 45/2023

Date: 29.09.2023

ORDER

In the matter of CA Sanjay Soni, ICAI Membership No. 114835 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 07.12.2022, issued to CA Sanjay Soni, partner of M/s Lahoti Navneet & Co. (Audit Firm), (ICAI Firm Registration No: 116870W), Mumbai, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 114835) and was the Engagement Partner (EP) for the statutory audit of seventeen branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Sanjay Soni for his role as the Engagement Partner (EP) in the audit of seventeen branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the "Independent Branch Auditors' Report" for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under

section 132 (4) of the Companies Act, 2013 (the Act), including CA Sanjay Soni, who was the EP for the audit of seventeen of the 250 branches of DHFL.

2. NFRA's investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Sanjay Soni accepted the appointment, portrayed himself as "Branch Statutory Auditor" in all communications with the Company and CAS, and issued an "Independent Branch Auditor's Report". By doing so CA Sanjay Soni not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.
3. Notwithstanding his defective appointment, the Branch Audit performed by CA Sanjay Soni was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Sanjay Soni, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Sanjay Soni a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for six months from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have

occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA Sanjay Soni, to whom this Order relates and who acted as the branch auditor for the seventeen branches of DHFL at Borivali, Vasai East, Virar, Borivali West, Virar East, Fort, Nanganallur, Tiruvallur, Ambattur, Erode, Madurai, Puducherry, Salem, Thirunelveli, Tuticorin, Trichy and Vellore.

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, CA Sanjay Soni was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The EP submitted the Audit File along with other information in respect of the seventeen branches for FY 2017-18 on 24.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Sanjay Soni on 07.12.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of seventeen branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 05.01.2022. The EP submitted the reply on 03.01.2023.
12. The EP did not avail of the opportunity for a personal hearing before the Executive Body of NFRA. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

¹ As defined in para 6 of SA 230

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. Thus, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that *“we were under the impression that our appointment for the F.Y. 2017-18... is also in order in as much as the earlier appointment letters were also in the same line. Merely because there were some lapses by the Company in our appointment as branch auditors for the year under reference, the same cannot be considered as gross negligence on our part... Our appointment as branch auditors for the above year by the Company without referring to any authority given in the AGM to do so is no doubt a lapse but the same is not of such a scale to brand the report issued by us as void. The same is a negligence but by no stretch of imagination it can be considered as ‘gross negligence’ in the light of our past appointments which were authorised by the shareholders in the AGM.”*
17. We note that the EP has admitted that there was a “lapse” on the part of the company and the omission to notice it is “negligence” on his part. On examination of the replies of the EP, the appointment letter acknowledged by the audit firm and the “Independent Branch Auditors’ Report” issued by the EP including the report required under CARO 2015 clearly

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

described the engagement as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.

18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct)³ a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013) in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*".
20. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, the audit firm's acceptance vide letter dated 06.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the seventeen Branches of DHFL, including the report required under CARO 2015, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA Sanjay Soni was not as per the provisions of the Law, we now discuss the non-compliance by CA Sanjay Soni with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

23. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
24. Responding to the charges, the EP stated that the appointment letter and its acceptance by the EP contained all the required details as per SA 210. He further submitted that *“It can be seen from the Company’s appointment letter that the same gives clear scope of work not only as per the Companies Act but also the specific requirement of work, and also the Guideline for Statutory Audit of Branches... As we were carrying out Branch Audit for last many years, the assignment was of recurring nature and since there was no change in the scope of work and the engagement terms as that of from the first year of our appointment, we by giving acceptance to the Company’s appointment letter has actually agreed to the scope of work which were elaborately outlined and is, therefore, our agreement on Audit Engagement Terms.”*
25. The contention of EP is not acceptable. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework⁸. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.
26. Para 10 of SA 210 which refers to para 11 of the SA states that if **law or regulation prescribes in sufficient detail the terms of the audit engagement referred to in paragraph 10**, the auditor need not record them in a written agreement, except for the fact that such law or regulation applies, and that management acknowledges and understands its responsibilities. While the EP admits that the engagement was a branch statutory audit under section 143(8) of the Act, the EP ignored that para 11 of SA 210 can be invoked only if the terms of audit engagement such as the objective of the audit, the responsibilities of management, applicable financial reporting framework and expected form and contents of the audit report are prescribed by the Law, i.e., Section 143(8) of the Act. This was not the

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

case since the engagement was for a branch statutory audit and certain other specific engagements decided by the Company.

27. Between 2015-16 and 2016-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches.
28. We conclude that the EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

29. The EP was charged with non-compliance with SA 230⁹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
30. The EP denied all the charges and submitted that the *"audit file is commensurate with the nature & scope of the work so assigned. I have submitted report on branch's financial information summary wherein verification of Risk Assessment, parameters for materiality level, Internal control and summary of discussion with branch head etc. were provided. Based on the said documents, the branch audit report was issued to the Company Auditor & there is no violation of SAs in this regard... Since I was engagement partner for many years for the said assignment, I was conversant with the business operations of the Branch and how the internal financial controls were maintained. The scope of the work was elaborately stated in the appointment letter and the planning & the strategy for carrying out the audit was prepared in accordance with normal audit procedure... the previous auditor's report was referred to & the opening balances were checked with the previous audited trial balance... The sample size etc. was part of the scope of work defined in the appointment letter. Thus, there was no violation of the SAs"*.
31. The EP's contention is not acceptable in view of the absence of documentation in this regard. For instance, *"branch's financial information summary"* document referred to by the EP (a) does not fulfil mandatory documentation requirements of SA 315¹⁰ as regards

⁹ SA 230 – Audit Documentation

¹⁰ Para 32 of SA 315, Identifying and Assessing the Risk of Material Misstatement through Understanding the Entity and its Environment.

Risk Assessment, (b) mentions only parameters for materiality without determination of any performance materiality and planning materiality¹¹ for the subject audit engagement and (c) contains no summary of discussion with the branch head or description of any other procedure performed by the EP. The referred document only mentioned the final conclusion of the EP about several “*Significant Risk*” wherein the EP himself identified that certain “*Significant Risk*” were not addressed by the existing Internal Controls and that there were “*no cross control document/report maintained*” for them. EP’s contentions that “*Since I was engagement partner for many years for the said assignment, I was conversant with the business operations of the Branch and how the internal financial controls were maintained*” is not acceptable since it is the fundamental stipulation of SA 230 that the auditor shall assemble the audit documentation in an audit file (and not multiple audit files of different years). Further, EP’s contentions that “*The sample size etc. was part of the scope of work defined in the appointment letter*” are not acceptable as we find that the conditions in the appointment letter do not evidence basis for EP’s work and conclusions. The SAs cast a responsibility¹² on the auditor to design and perform audit procedures to obtain sufficient appropriate audit evidence on which to base the audit opinion. The terms given by the company cannot substitute this responsibility. There is no evidence that any of the sampling and the related procedures as detailed in SA 530 have been complied with by the EP, while the audit opinion is based on sample testing. There is no evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by Paragraph 8 of SA 230, documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.

32. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor’s basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
33. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the

¹¹ As required by SA 320 Materiality in Planning and Performing an Audit

¹² SA 500 and SA 530, among other SAs

administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.

34. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
35. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
36. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹³).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹⁴). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality arrived at is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
37. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 29 above regarding non-compliance with SA 230 stand established.
38. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed

¹³ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment.

¹⁴ SA 320, Materiality in Planning and Performing an Audit

seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

The EP was charged with non-compliance with SA 700. As per SA 700¹⁵ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged that he did not comply with SA 700¹⁶.

39. The EP has not specifically replied to the charge other than the contentions mentioned in para 30 above.
40. The EP has not even determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the EP issued an opinion without complying with the requirements of SA 700.
41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls and for reasons stated in para 30 to 35 above related to audit documentation, we observe that the unmodified

¹⁵ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁶ Para 11 of SA 700

opinion issued by EP is baseless. Hence, the charges in para 38 above regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁷ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁸ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - d. Para 5, 6, 8, 14 & 15 of SA 450 absent the evaluation of identified misstatements and uncorrected misstatements
 - e. Para 5, 6 and 8 of SA 510¹⁹ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - f. Para 6 of SA 520²⁰ relating to design and performance of analytical procedures.
 - g. Para 4, 6, 7, 8 & 9 of SA 530²¹ relating to the determination of sample design, sample size and required audit procedures.
 - h. Para 8, 9 & 10 of SA 580²² regarding obtaining written representations from the management about their responsibilities.
43. The EP has not separately replied to the charge except for the contentions mentioned in para 30 above.
44. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 31 to 37 above related to audit documentation.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

45. Given the above-mentioned actions and omissions, it is established that CA Sanjay Soni did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was

¹⁷ SA 300, planning an Audit of Financial Statements.

¹⁸ SA 330, The Auditor's Responses to Assessed Risks

¹⁹ SA 510, Initial Audit Engagements – Opening Balances

²⁰ SA 520, Analytical Procedures

²¹ SA 530, Audit Sampling

²² SA 580, Written Representations

grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Sanjay Soni as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Sanjay Soni committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

46. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
47. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
48. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²³ in the larger public interest.
49. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied

²³ As defined in Rule 3 of NFRA Rules 2018

with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

50. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Sanjay Soni has not adhered to the Standards on Auditing and the provisions of the law.
51. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
52. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of **₹ 100,000 (One Lakh)** upon CA Sanjay Soni;
 - ii. CA Sanjay Soni is debarred for **six months** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
53. This order will become effective after 30 days from the date of issue of this order.

Sd/
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Sanjay Soni,
ICAI Membership No - 114835,
Partner, M/s Lahoti Navneet & Co.,
Chartered Accountants,
(ICAI Firm Registration No: 116870W)
516-Omkar Summit Business Bay, Behind
Gurunanak Petrol Pump, Near Western Express
Highway Metro Station, Andheri East,
Mumbai-400093
Email: casanjayrsoni@gmail.com
info.lahotinavneetandco@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 56/2023

Date: 29.09.2023

ORDER

In the matter of CA Rashmikant D. Kundalia, ICAI Membership No. 036775 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 07.12.2022, issued to CA Rashmikant D. Kundalia, partner of M/s R.D. Kundalia & Associates, (ICAI Firm Registration No: 130789W), Mumbai, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 036775) and was the Engagement Partner (EP) for the statutory audit of six branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Rashmikant D. Kundalia for his role as the Engagement Partner (EP) in the audit of six branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP)

or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Company's Statutory Auditor, viz CAS, had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Rashmikan D. Kundalia, who was the EP for the audit of six of the 250 branches of DHFL.

2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Rashmikan D. Kundalia accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Rashmikan D. Kundalia not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.
3. Notwithstanding the defective appointment, the Branch Audit performed by CA Rashmikan D. Kundalia was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Rashmikan D. Kundalia, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP’s professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Rashmikan D. Kundalia a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.

7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Rashmikant D. Kundalia, to whom this Order relates and who acted as the branch auditor for the six branches of DHFL at Pen, Dombivli, Titwala, Ghodbunder, Vashi and Ulwe.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA's investigations, the audit firm was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The Audit File along with other information in respect of the six branches for which CA Rashmikant D. Kundalia was the EP for FY 2017-18 was received on 25.08.2022 and 02.09.2022.
10. The investigation by NFRA revealed prima facie evidence that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Rashmikant D. Kundalia on 07.12.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of six branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.

¹ As defined in para 6 of SA 230

11. The EP was asked to submit his reply to SCN by 05.01.2023 but was granted an extension of time following a request vide e-mail dated 05.01.2023. The EP submitted the reply on 12.01.2023. In the reply to SCN, the EP opted for the opportunity given for a personal hearing before the Executive Body (EB) of NFRA. Accordingly, vide letter dated 02.03.2023 sent via email, the EP was granted an opportunity to be heard. Upon no response from the EP by the prescribed time, NFRA tried to contact the EP over the telephone. However, the calls were also not responded to. A reminder email was sent again on 12.07.2023 to confirm his willingness to avail the opportunity to be heard. The EP responded to the email on 13.07.2023 and availed the opportunity of a personal hearing. The hearing was conducted on 18.08.2023 in which the EP largely reiterated his written replies. The EP also submitted additional written responses on 18.08.2023 (before the personal hearing) and again on 25.08.2018, largely repeating his earlier stand. We examined in detail all the submissions made by the EP.
12. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order. It is pertinent to note that in his additional written responses, the EP also raised the issue of the jurisdiction of NFRA vis-à-vis financial year 2017-18.
 - a. We observe that NFRA has requisite jurisdiction and authority under Section 132(4) of the Act, read with other applicable provisions of the Act, to monitor and enforce compliance with the SAs and to investigate matters of professional misconduct of Chartered Accountants falling under the NFRA domain. Section 143 (9) of the Companies Act, 2013 mandates an Auditor to comply with the Auditing Standards. The proviso to section 143(10) states that until the Auditing Standards are notified by the Central Government, the Auditing Standards specified by the ICAI would be deemed to be the Standards on Auditing. The notification of NFRA with effect from 01-10-2018, as the body responsible inter alia for investigating professional misconduct and other misconduct, does not alter the Auditor's liability to fully comply with the Standards and the law prior to the formation of NFRA.
 - b. Section 132(4) of the Companies Act gives exclusive jurisdiction to NFRA in matters of professional or other misconduct for Auditors of cases that fall within the jurisdiction of NFRA which is evident from the following:
 - i. The Proviso to Section 132(4)(a) of the Act states –“Provided that no other body or institute shall initiate or continue with proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section”.
 - ii. Also, Rule 10(3) of the NFRA Rules, 2018 states - “ On the commencement of these rules- (a) the action in respect of cases of professional or other misconduct against auditors of companies referred to in Rule 3 shall be initiated by Authority and no other institute or body shall initiate any such proceedings against such auditors”.

Thus, NFRA has exclusive jurisdiction in matters of professional or other misconduct.
 - c. Compliance with Standards of Auditing was mandatory, and its non-compliance was punishable even prior to the establishment of NFRA, hence no new obligation or offence has been created on the Auditors. In view of this backdrop and specific wordings of Section 132 and Rule 10 quoted above, it is clear that NFRA has sole and

exclusive jurisdiction to initiate proceedings in earlier years too or else it would lead to an anomalous situation of a regulatory gap where any misconduct committed prior to the formation of NFRA will go unpunished. The law enabling investigation into professional and other misconduct, being in existence in the period prior to 2018, cannot be said to be retrospective and NFRA jurisdiction is established for implementing the process of investigation into misconduct committed in the past as well. Thus, the challenge to the jurisdiction of NFRA with respect to misconduct committed prior to 2018 does not stand.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that “*DHFL had passed a separate and specific resolution for the appointment of branch auditor, (RDKA) [M/s R.D. Kundalia & Associates] by the Company for FY16... DHFL has used a standard/routine draft/practice of communicating the appointment to RDKA as Branch Auditor for FY18...*”. The EP stated that there were “two cardinal facts”, one that it was their “recurring appointment” for the “same branches” and second that there was “uniformity of Branch Auditor’s Remuneration from year to

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

year...”. The EP further submitted that “*impugned audit year is our Eighth year of such audit*” and “*cardinal facts coupled with impugned appointment letter with detailed scope of work attached therewith demonstrate ‘substantial compliance’ with the appointment process*” and the “*circumstances during FY18 as compared to FY16 have been same and identical. There have not been any changes in the circumstances as illustrated and quoted in the Implementation Guide on Audit Engagements*”. He further submitted that “*Sans prejudice to the foregoing elucidation... a Practicing CA can delegate his work to another practising CA*”.

17. In the additional written submissions (both before and after the personal hearing), the EP has contended that “*the appointment of CAS has been technically deficient*” since the audit firm was the branch auditor for FY 2016-17 for the same six branches and it was neither removed as branch auditor in the AGM nor resigned as the Branch Auditor. The EP has also claimed shelter of sub-rule (7) of Rule 3 of Companies (Audit and Auditors) Rules, 2014 which states “*the auditor appointed in the annual general meeting shall hold office from the conclusion of that meeting till the conclusion of the sixth annual general meeting*”. As an “*alternate submission*” “without prejudice” to his other contentions and remedies, the EP has mentioned that in case NFRA is still of the view that his appointment was not valid, then he may be taken to have acted as “*agent of the CAS*” in terms of SA 600³.
18. We observe that none of the submissions of the EP are supported by evidence. The replies of the EP, offering divergent views to be chosen at the option of NFRA, show the absence of professional behaviour. It also confirms the charges that the EP has accepted the audit without examining its legal validity, so as to understand the nature and scope of the engagement.
19. We find that as mentioned in para 17 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs. The first proviso to Section 139(1) of the Act required⁴ that “*the company shall place the matter relating to such appointment for ratification by members at every annual general meeting*”. Thus, had it been a recurring audit as claimed by the EP, then he was required to ensure that his appointment was ratified by the members in the AGM. The EP failed to notice that in FY 2015-16, the AGM specifically resolved to appoint separate Branch Statutory auditors and the Company’s Auditors while in 2017-18 there was only one statutory auditor, i.e., CAS, for the Company and all its branches. It is thus evident that the EP, without even being aware of the change in mandate, continued his purported role as statutory auditor and issued the reports accordingly. On receipt of the SCN, the EP tried to cover up the lapses by taking the plea that the audit was not a statutory audit or if it was a statutory audit he was duly appointed.

³ SA 600 – Using the Work of Another Auditor.

⁴ As it stood at the time of audit

20. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession⁵. His failure to act honestly and reasonably is established by his alternate submission that he was an agent of CAS and not a “Statutory Branch Auditor” and further evidences the lack of professionalism in the discharge of his duties.
21. The below documents evidence that the EP accepted the subject matter audit assignment, acted and called himself as “Statutory Auditor for the Branches” of DHFL until an SCN was issued to him by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appointed the audit firm as "Statutory Auditor for the branches" at a "Statutory Audit Fees" of ₹1,50,000/-
2	Acceptance Letter	12.09.2017	Signed by Audit Firm accepting appointment as "Branch Statutory Auditor"
3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	Stated that “Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors... ”
4	Confirmation letter(s) issued to CAS	07.04.2018	The EP confirmed to CAS that “we are aware that (i) the financial information of the branches for the...year ended 31 st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31 st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for you

⁵ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

			<i>report on your audit of the financial statements of the Company”.</i>
5	Independent Branch Auditor’s Report	07.04.2018 for six branches	The EP certified that “ <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance</i> ” and also certified the “ <i>true and fair view of the Branch as at 31st March 2018</i> ”.
6	Branch’s Financial Information Summary Memorandum	07.04.2018	EP certified that “ <i>In our opinion, based on our audit, the financial information...as of 31st March, 2018 and for the year ended gives a true and fair view</i> ”.

22. Besides the above, the EP prepared a report titled “Independent Branch Auditors’ Report” on the “accounts of the branch” examined by him and sent it to the auditor of the company as is required by the proviso to Section 143(8) of the Act read with Rule 12 of Companies (Audit and Auditors) Rules, 2014. Further, these branch audit reports are clearly referred to by the Company’s Statutory Auditor (CAS) in its report to the members of the Company in line with requirement Section 143(3)(c), Section 143(8) read with Rule 12 mentioned above. These facts make it clear that he acted as the branch statutory auditor but did not ensure a valid appointment.
23. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as

professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁶ in respect of such appointment have been duly complied with.

24. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*". As evidenced by the instances listed in the Table above, the EP's documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit.
25. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, the audit firm's acceptance vide letter dated 31.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the six Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
26. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with

⁶ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁷. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

27. Notwithstanding our finding in Part I above that the appointment of CA Rashmikant D. Kundalia was not as per the provisions of the Law, we now discuss the non-compliance by CA Rashmikant D. Kundalia with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "*Independent Branch Auditors' Report*" stating therein that "*we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance*". Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

⁷ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

28. The EP was charged with non-compliance with SA 210⁸ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁹ as well. SA 210¹⁰ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
29. Responding to the charges, the EP stated that the appointment letter issued by the Company “clearly states following:- *The objective and Scope of the Audit - Responsibility of Auditors - Responsibility of Management - Accounting framework for preparation of FS - There were no circumstances which compelled us to adopt a different form of reporting than agreed form and consent*” and has referred to “*Implementation Guide on SA210*”. He stated that “*being a recurring audit of same branches, new audit engagement letter was not given in the absence of any specific requirement as per SA*”. He further referred to “*The Audit of Branches was being carried out as per Companies Act, 2013 and Income Tax Act, 1961*” and stated that as per para 11 of SA 210 “*the applicable laws themselves give a detailed list of audit engagement*”. In his additional submissions, the EP submitted that DHFL had requested them to issue specific reports only. Thus, he performed the audit as per the given scope.
30. The contentions of EP are not acceptable. The appointment letter makes it clear that “*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*” Thus, the subject matter assignment was not only limited to “Statutory Branch Audit”, but also included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter to DHFL before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.
31. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of a proper description of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter (as prescribed

⁸ SA 210, Agreeing the Terms of Audit Engagements.

⁹ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

¹⁰ Para 9, 10 and 11 of SA 210

by SA 210)¹¹ was not found to have been issued by EP. The EP's response above shows a flawed understanding of the scope of SA 210.

32. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210.
33. The EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 28 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

34. The EP was charged with non-compliance with SA 230¹². EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
35. The EP denied all the charges and submitted that "*there was sufficient audit evidence and documentation compiled by us during the audit....*".
36. The EP's contention that is not acceptable in view of the absence of any documentation in this regard. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
37. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.

¹¹ The sample engagement letter provided in appendix I of SA 210 may be referred.

¹² SA 230 – Audit Documentation

38. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
39. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
40. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
41. The Audit File does not even contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹³).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹⁴). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality arrived at is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
42. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The EP did not follow the requirements of SA 230

¹³ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹⁴ SA 320, Materiality in Planning and Performing an Audit

and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 34 above regarding non-compliance with SA 230 stand established.

43. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

44. The EP was charged with non-compliance with SA 700. As per SA 700¹⁵ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁶.
45. The EP replied that *“Since we have obtained sufficient and appropriate audit evidences and we have checked that Branches have not violated NHB Guidelines we have given above report without qualification.”*
46. The EP has not even determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are

¹⁵ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁶ Para 11 of SA 700

also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures as per SA 230 and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the EP issued an unmodified opinion without complying with the requirements of SA 700.

47. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 44 above regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

48. The EP was charged with non-compliance with the following provisions of SAs:
- a. Para 6, 7, 8, 9 & 10 of SA 300¹⁷ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that Audit Plan was "*as per Audit Log Book*". The EP's contention is not accepted since the "*Audit Log Book*" submitted by the EP along with the reply to the SCN does not form part of the Audit File.. The EP's claim in his additional written submissions that "*pre-audit briefings*" and "*ratio analysis*" were performed is also not supported by any evidence in the Audit File.
 - b. Para 5, 6 & 11 of SA 315 as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that they "*performed Analytical procedures in terms of Ledger Scrutiny, Comparison with Previous Year Trial Balance and ABC Analysis*". In his additional written submissions, the EP claims to have performed risk assessment procedures, including inquiries and inspections. The EP's contention cannot be accepted for the absence of any evidence in the Audit File to support the performance of any audit procedures.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. The EP submitted that "*We, as Branch Auditors, were concerned with one class of transactions, namely, granting of home loans and recovery thereof at the Branch. Therefore, aspect of materiality was limited to that set of transactions only...*". The EP's contentions cannot be accepted since materiality needs to be decided at the assertion level as well, however, there is no determination of materiality by the EP in the Audit.
 - d. Para 6 of SA 520¹⁸ relating to the design and performance of analytical procedures. The EP submitted that "*an audit procedure of ledger Scrutiny for overall Checks was performed*". In the absence of documentary evidence in the audit file, contention cannot be accepted.

¹⁷ SA 300, Planning an Audit of Financial Statements.

¹⁸ SA 520, Analytical Procedures

- e. Para 4, 6, 7, 8 & 9 of SA 530¹⁹ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that “*Housing Loan Samples were designed on materiality as well as fairness criteria. Sample in respect on Non housing transactions was designed on the basis of principle of ABC Analysis*”. In a scenario of non-determination of materiality and absence of any evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it, the contentions of the EP are without any basis.
 - f. Para 8, 9 & 10 of SA 580²⁰ regarding obtaining written representations from the management about their responsibilities. The EP submitted that “*Trial Balance, Bank Reconciliation statements, insurance details and Bank statements were signed by Branch Manager. Further loan data verification was signed by Branch Manager. These documents are in place as a representation by Branch.*” EP’s contention cannot be accepted in view of the mandatory requirement of SA 580 to obtain written representation.
49. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 36 to 42 and Para 50 above read with the requirements of para 75 of SQC 1 and paras 14, 15 and A21 of SA 230 regarding the completion of the assembly of the final audit engagement files within 60 days after the date of the auditor’s report.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

50. Given the above-mentioned actions and omissions, it is established that CA Rashmikant D. Kundalia did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Rashmikant D. Kundalia as contained under the Articles of Charges in the SCN are established.
- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
 - b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);

¹⁹ SA 530, Audit Sampling

²⁰ SA 580, Written Representations

- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Rashmikan D. Kundalia committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

- 51. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
- 52. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
- 53. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²¹ in the larger public interest.
- 54. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
- 55. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Rashmikan D. Kundalia right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact,

As defined in Rule 3 of NFRA Rules 2018

accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Rashmikant D. Kundalia has not adhered to the Standards on Auditing and the provisions of the Law.

56. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
57. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that the professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
- i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Rashmikant D. Kundalia;
 - ii. CA Rashmikant D. Kundalia is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
58. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingan)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Rashmikant D. Kundalia,
ICAI Membership No - 036775,
Partner, M/s R.D. Kundalia & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 130789W)
A-207, Krishna Apartment,
Bhatt Lane, Poisar Depot,
S. V. Road, Kandivali-West
Mumbai – 400 067
Email: rashmikantkundalia@yahoo.co.in

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण /National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 37/2023

Date: 29.09.2023

ORDER

In the matter of CA Ramesh Chaturvedi, ICAI Membership No. 044886 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 21.11.2022, issued to CA Ramesh Chaturvedi, proprietor of M/s Ramesh Chaturvedi & Co., (ICAI Firm Registration No: 113621W), Mumbai, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 044886) and was the Engagement Partner (EP) for the statutory audit of eight branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Ramesh Chaturvedi for his role as the Engagement Partner (EP) in the audit of eight branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Ramesh Chaturvedi, who was the EP for the audit of eight of the 250 branches of DHFL.

2. NFRA's investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Ramesh Chaturvedi accepted the appointment, portrayed himself as "Branch Statutory Auditor" in all communications with the Company and CAS, and issued an "Independent Branch Auditor's Report". By doing so CA Ramesh Chaturvedi not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required him to ensure a valid appointment as per the Act.
3. Notwithstanding his defective appointment, the Branch Audit performed by CA Ramesh Chaturvedi was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Ramesh Chaturvedi, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Ramesh Chaturvedi a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a

¹ As defined in para 6 of SA 230

Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA Ramesh Chaturvedi, to whom this Order relates and who acted as the branch auditor for the eight branches of DHFL at Thane-RPU, Thane, Thane Naupada, Kalyan, Navi Mumbai, Panvel, Kharghar and Bhandup².

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, the audit firm was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The Audit File along with other information in respect of the nine branches for which CA Ramesh Chaturvedi was the EP for FY 2017-18 was received on 24.08.2022.
10. The investigation by NFRA revealed prima facie that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Ramesh Chaturvedi on 21.11.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of eight branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 20.12.2022 and the EP submitted his reply on the stipulated date.
12. The EP did not avail of the opportunity for a personal hearing before the Executive Body of NFRA. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

² The appointment letter was for the “Statutory Branch Audit” of eight DHFL branches. However, the reports were issued by the EP for nine branches. The audit report was additionally issued for Bhandup CPU branch.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement³ in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that *“we were not privy to the branch auditor's appointment process... we were appointed with the limited scope of the branch records and were neither appointed as an independent auditor nor as a concurrent auditor... we respectfully relied on the wisdom and reputation of the statutory auditors”*.
17. We have examined the replies of the EP. We find that as mentioned in para 15 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. Despite this, the contention of the EP that he was not a Statutory Auditor shows the absence of professional behaviour and gross negligence. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession⁴. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as an assignment with *“limited scope”*.

³ Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

⁴ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

18. The below documents evidence that the EP accepted the subject matter audit assignment, acted and called himself as “Statutory Auditor for the Branches” of DHFL until an SCN was issued to him by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as " <i>Statutory Auditor for the branches</i> " at a " <i>Statutory Audit Fees</i> " of ₹1,80,000/-
2	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that “ <i>Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors... ”</i> ”
3	Confirmation letter(s) issued to CAS	14.09.2017	The EP confirms to CAS that “ <i>we are aware that (i) the financial information of the branches for the...year ended 31st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for you report on your audit of the financial statements of the Company</i> ”.
4	Independent Branch Auditor’s Report	07.04.2018 for nine branches (The appointment letter was for the “statutory audit” of eight DHFL branches. However, the reports were issued for nine branches, ninth branch being	EP certifies under “ <i>Auditor’s Responsibility</i> ” that “ <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to</i> ”

		Bhandup CPU branch.)	<i>obtain reasonable assurance” and also certified the “true and fair view of the Branch as at 31st March 2018”.</i>
6	EP’s letter addressed to NFRA	24.08.2022	EP states that “...we wish to confirm that my Proprietorship Firm namely Ramesh Chaturvedi & Co. having Registration No. 113621W, was appointed as the Statutory Auditor for 9 branches for the FY 2017-18”.

The appointment letter also makes it clear that “*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*” Thus, the subject matter assignment was “Statutory Branch Audit”, and additionally included verification of certain specific areas. Besides the above, the EP prepared a report on the “accounts of the branch” titled “Independent Branch Auditor’s Report” and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 of Companies (Audit and Auditors) Rules, 2014. Thus, the contention of the EP that the subject matter engagement was not an independent audit is unsupported by evidence.

19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁵ in respect of such appointment have been duly complied with.
20. The ICAI Code of Ethics, 2009 makes it clear that “*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word “ascertain” means “to find out for certain”. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*”.
21. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the

⁵ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, the audit firm's acceptance vide letter dated 31.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the eight Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

22. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁶. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

23. Notwithstanding our finding in Part I above that the appointment of CA Ramesh Chaturvedi was not as per the provisions of the Law, we now discuss the non-compliance by CA Ramesh Chaturvedi with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the *"Independent Branch Auditors' Report"* stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules"*

⁶ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance". Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

24. The EP was charged with non-compliance with SA 210⁷ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁸ as well. SA 210⁹ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
25. Responding to the charges, the EP stated that the *"appointment letter from the Company and the Consent letter from my end, covering the relevant requirements of SA 210 can be taken as ... other suitable form of written agreement" as per para 10 of SA 210*".
26. The contention of EP is not acceptable. The appointment letter makes it clear that *"Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors..."* Thus, the subject matter assignment was not only a "Statutory Branch Audit", but also included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to clarify the scope, duties and responsibilities with respect to the audit, as required by SA 210

⁷ SA 210, Agreeing the Terms of Audit Engagements.

⁸ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁹ Para 9, 10 and 11 of SA 210

27. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of a proper description of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter (as prescribed by SA 210)¹⁰ was not found to have been issued by EP. The EP's response above shows a flawed understanding of the scope of SA 210.
28. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210.
29. The EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 24 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

30. The EP was charged with non-compliance with SA 230¹¹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
31. Responding to the charges, the EP denied all the charges and submitted responses as summarised in para 37 below.
32. The EP's contention is not acceptable since there is no evidence in the Audit File to indicate that the EP had performed audit procedures and documented as required by para 8 of SA 230 the conclusion, nature, timing and extent of the procedures performed, as detailed below.
33. We observe that as explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC

¹⁰ The sample engagement letter provided in appendix I of SA 210 may be referred.

¹¹ SA 230 – Audit Documentation

1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.

34. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.
35. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
36. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
37. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹²). The EP submitted that “*Detailed and exhaustive guidelines for statutory audit of branch were received from the Company along with the Appointment letter... We found the same to be sufficient and appropriate*”. The EP’s contention cannot be accepted since, as explained earlier in this order, the SAs are applicable for the branch statutory audit and the EP was obligated to comply with the requirements of SA 315.
 - b. Audit plan made after understanding the branch operations in accordance with SA 300. The EP submitted that “*detailed Audit Plan is already included in the Audit File*”. The “*Audit Plan*” available in the audit file does not comply with SA 300 as it is made without first complying with SA 300, SA 315 and SA 300.

¹² SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

- c. Determination of materiality levels (refer to SA 320¹³). The EP submitted that *“Audit Program maintained in the Audit File elaborates the areas covered under audit as well as the extent and materiality levels”*. This contention cannot be accepted since there is no documentation of materiality for the loans. Also, there is no documentation of the basis of arriving at materiality and how the materiality is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315). The EP submitted that *“our access to the IT systems was limited to specific areas only...thus, understanding the IT control systems in detail...was not feasible for us”*. The EP’s contention cannot be accepted since the EP was required to obtain an understanding of IT internal controls applicable at the Branch level.
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
38. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 30 above regarding non-compliance with SA 230 stand established.
39. The lack of sufficient documentation in an audit is not a mere technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the*

¹³ SA 320, Materiality in Planning and Performing an Audit

Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

40. The EP was charged with non-compliance with SA 700. As per SA 700¹⁴ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁵.
41. The EP replied that *“branch auditor's scope of forming an opinion that financial statements are free from material misstatements and Reporting on Financial Statements was very restricted”*.
42. The EP’s contention cannot be accepted since, as explained earlier in this order, the SAs are applicable for the branch statutory audit also. The EP did not determine any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the EP issued an opinion without complying with the requirements of SA 700.
43. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 40 above regarding non-compliance with SA 700 stand proved.

Non-compliance with other SAs

44. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁶ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The *“Audit Plan”* available in the audit file does not comply with SA 300, as it is made without first complying with SA 300, SA 315 and SA 330.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁷ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material

¹⁴ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁵ Para 11 of SA 700

¹⁶ SA 300, Planning an Audit of Financial Statements.

¹⁷ SA 330, The Auditor’s Responses to Assessed Risks

misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that *“it was beyond our scope of work as branch auditors, to check and give our report on entity's financial performance, entity's objectives and strategies, types of investments that the entity was making and was planning to make, entity's objectives and strategies, and those related business risks that may result in risks of material misstatement, etc.”*. EP's contentions cannot be accepted in the absence of any working papers in the Audit File to satisfy the mandatory documentation requirements of SA 315 and 330 viz. (1) discussion among the engagement team, (2) key elements of the understanding obtained, (3) risk assessment procedures performed, risks identified, and related controls about which the auditor has obtained an understanding, etc.

- c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
- d. Para 5, 6, 8, 14 & 15 of SA 450¹⁸ absent the evaluation of identified misstatements and uncorrected misstatements. The EP submitted that *“We had a separate section in all our branch audit reports named as ‘Notes to Accounts & Important Observations....’ which highlighted material misstatements, discrepancies, irregularities (if any)”*. The EP's contentions cannot be accepted in the absence of any working papers fulfilling even the mandatory documentation requirements of SA 450 viz. (a) the amount below which misstatements would be regarded as clearly trivial or (b) documented conclusions in the audit file in this regard.
- e. Para 5, 6 and 8 of SA 510¹⁹ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances. The EP submitted that *“we had confirmed the balances from the computer systems”*. EP's contention cannot be accepted in the absence of any working papers as evidence of any such audit procedure.
- f. Para 6 of SA 520²⁰ relating to the design and performance of analytical procedures.
- g. Para 4, 6, 7, 8 & 9 of SA 530²¹ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that *“we as branch auditors used ‘audit sampling’ on a random basis in such a way that all loan files had a chance of selection”* to address the requirements of SA 530. In the absence of any evidence of application of the statistical method of random sampling and the basis for the selection of the sampling method, the contentions of the EP are without any basis.
- h. Para 8, 9 & 10 of SA 580²² regarding obtaining written representations from the management about their responsibilities. The EP submitted that *“Being branch auditors, we had very limited access to communicate and ask for any sort of written*

¹⁸ SA 450, Evaluation of Misstatements Identified during the Audit

¹⁹ SA 510, Initial Audit Engagements – Opening Balances

²⁰ SA 520, Analytical Procedures

²¹ SA 530, Audit Sampling

²² SA 580, Written Representations

representations from the management and those charged with governance, at the Head office level.” EP’s contention cannot be accepted since as explained earlier in this order, the SAs are applicable for the branch statutory audit also. The EP was required to obtain written representation from the management at the branch level.

The reply of the EP is not acceptable in the absence of any evidence in the Audit File and for non-conformity with the SAs for the reasons stated in Para 32 to 37 and Para 44 above.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

45. Given the above-mentioned actions and omissions, it is established that CA Ramesh Chaturvedi did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Ramesh Chaturvedi as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Ramesh Chaturvedi committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

46. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
47. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
48. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²³ in the larger public interest.
49. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
50. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Ramesh Chaturvedi right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Ramesh Chaturvedi has not adhered to the Standards on Auditing and the provisions of law.
51. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
52. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that the professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:

²³ As defined in Rule 3 of NFRA Rules 2018

- i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Ramesh Chaturvedi;
- ii. CA Ramesh Chaturvedi is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

53. This order will become effective after 30 days from the date of issue of this order.

Sd/-
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Ramesh Chaturvedi,
ICAI Membership No - 044886,
M/s Ramesh Chaturvedi & Co.,
Chartered Accountants,
(ICAI Firm Registration No: 113621W)
703, Palm Spring Centre,
New Link Road, Malad – West,
Mumbai – 400064
Email: rccompany91@gmail.com
rccompany91@yahoo.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 36/2023

Date: 29.09.2023

ORDER

In the matter of CA P Rabi Kumar Patra, ICAI Membership No. 308396 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA P Rabi Kumar Patra, partner of M/s ABPS & Associates, (ICAI Firm Registration No: 324706E), Bhubaneswar, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 308396) and was the Engagement Partner (EP) for the statutory audit of three branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA P Rabi Kumar Patra for his role as the Engagement Partner (EP) in the audit of three branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP)

or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA P Rabi Kumar Patra, who was the EP for the audit of three of the 250 branches of DHFL.

2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA P Rabi Kumar Patra accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA P Rabi Kumar Patra not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required him to ensure a valid appointment as per the Act.
3. Notwithstanding his defective appointment, the Branch Audit performed by CA P Rabi Kumar Patra was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA P Rabi Kumar Patra, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP’s professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA P Rabi Kumar Patra a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.

7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA P Rabi Kumar Patra, to whom this Order relates and who acted as the branch auditor for the three branches of DHFL at Jamshedpur, Sambalpur and Bhubaneswar.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA's investigations, the audit firm was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The Audit File along with other information in respect of the three branches for which CA P Rabi Kumar Patra was the EP for FY 2017-18 was received on 25.08.2022.
10. The investigation by NFRA revealed prima facie that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA P Rabi Kumar Patra on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of three branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.

¹ As defined in para 6 of SA 230

11. The EP was asked to submit his reply to SCN by 18.11.2022 but was granted an extension of time following a request vide e-mail dated 17.11.2022. The EP submitted the reply on 04.12.2022.
12. The EP availed of the opportunity for a personal hearing and attended the personal hearing on 15.03.2023 before the Executive Body of NFRA. The EB brought to his notice that his written submissions stated that it was obvious for the Firm to believe that the Company must have complied with the provisions of Section 139. But, during the personal hearing, the EP categorically, parted from his written submissions and stated that non-verification of compliance with the applicable provisions was inappropriate on his part. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that “*When the Firm received the request from DHFL with a copy to its Company Statutory Auditor, it was nothing but obvious for the Firm to believe that the Company must have complied with the provisions of Section 139*”.

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

17. We observe from the replies of the EP, the appointment letter acknowledged by the audit firm and the "Independent Branch Auditors' Report" issued by him that the engagement is clearly described as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAS Act and SA 200 in this regard, as explained in subsequent paragraphs.
18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)³ in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*".
20. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, the audit firm's acceptance vide letter dated 31.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the three Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA P Rabi Kumar Patra was not as per the provisions of the Law, we now discuss the non-compliance by CA P Rabi Kumar Patra with the SAs, since the audit work done by the EP has been referred in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "*Independent Branch Auditors' Report*" stating therein that "*we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance*". Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf>) - Last accessed 29.09.2023)

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

23. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
24. Responding to the charges, the EP stated that the appointment letter issued by the Company contained “self-explanatory” scope of work and guidelines for the audit. EP further submitted that he had “*constant discussion over telephone with branch management*” and “*audit was recurring in nature having no change in the objective and scope of audit, terms of the audit engagement management, ownership, and having no significant change in nature or size of the branch’s business of the referred year in comparison to the previous years. Hence, the circumstances did not warrant a revision in audit engagement letter for the referred period as per the provisions of Para 13 of SA 210*”.
25. The contention of EP is not acceptable. The appointment letter makes it clear that “*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*” Thus, the subject matter assignment was not limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of a proper description of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter (as prescribed by SA 210)⁸ was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.
26. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210.

27. The EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

28. The EP was charged with non-compliance with SA 230⁹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. Responding to the charges, the EP denied all the charges and submitted that "*the assignment being repetition in nature, documents compiled in the Audit File is sufficient as far Branch Statutory Audit is concerned*". Hence, all the necessary basic documentation was referred to from the audit file of the last year(s).
30. The EP's contention is not acceptable in view of the absence of any documentation in this regard. On a specific query in this regard during the Oral hearing, the EP stated that there was no such reference to the previous year's files in the current year's audit file. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and as required by para 8 of SA 230 documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.

⁹ SA 230 – Audit Documentation

32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
35. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹⁰).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹¹). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
36. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not

¹⁰ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment.

¹¹ SA 320, Materiality in Planning and Performing an Audit

follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 above regarding non-compliance with SA 230 stand established.

37. The lack of sufficient documentation in an audit is not a mere technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review... the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.
39. The EP replied that *“Compliance of SA 700 has to be looked into in the context of scope, size, function, time constraints, guidelines of statutory auditors and the financial statements to be audited by the Branch Auditors.”*
40. The EP did not determine any planning and performance materiality in terms of SA 320. EP’s audit documentation nowhere specified any criterion¹⁴ for the selection of “random”

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

¹⁴ SA 530, Audit Sampling

loan accounts for verification. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the contention of the EP that “*Report was prepared on reasonable assurance that the financial statement expresses a fair and correct view*” is baseless and the EP issued an opinion without complying with the requirements of SA 700.

41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 38 above regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that “*there was an overall strategy setting scope, timing, direction of the audit and developing the audit program*”. The “*Audit Programme*” available in the audit file does not comply with SA 300, as it is made without first complying with SA 300, SA 315 and SA 330 viz. considering results of preliminary engagement activities¹⁶, planning nature, timing and extent of direction and supervision of engagement team members and review of their work¹⁷.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁸ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that “*as majority of the decision were not taken at the branch level most of the risk at branch level has been eliminated*”. EP’s contentions cannot be accepted in the absence of any working papers in the Audit File to satisfy the mandatory documentation requirements of SA 315 and 330 viz. (1) discussion among the engagement team, (2) key elements of the understanding obtained, (3) risk assessment procedures performed, risks identified, and related controls about which the auditor has obtained an understanding, etc.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. The EP submitted that “*many factors in SA 320, as far as materiality is concerned, does not fall within the ambit of Branch Statutory Audit of DHFL branches*”. Mandatory documentation requirements of SA 320 include (1) the factors considered in the determination of materiality, (2) materiality for the financial

¹⁵ SA 300, Planning an Audit of Financial Statements.

¹⁶ Para 7 of SA 300

¹⁷ Para 10 of SA 300

¹⁸ SA 330, The Auditor’s Responses to Assessed Risks

statements as a whole, (3) the materiality level or levels for particular classes of transactions, account balances or disclosures, (4) performance materiality and (5) any revision of the materiality amounts as the audit progress. The audit file in the present case lacked such mandatory documentation. Thus, EP's claims cannot be accepted.

- d. Para 5, 6 and 8 of SA 510¹⁹ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances. The EP submitted that "*I being the auditor of the same branches for the financial year 2016-17 (previous year) also*" so all documents were available with him. EP's contention cannot be accepted since to evidence compliance with the requirements of the SAs, it is the fundamental stipulation of SA 230 that the auditor shall assemble the audit documentation in an audit file (and not multiple audit files of different years). If permanent working papers are maintained in the previous year's audit file, proper reference to the same shall be made in the current year's audit file, so that, the nature, timing and extent of the audit procedures performed are properly documented.
 - e. Para 6 of SA 520²⁰ relating to the design and performance of analytical procedures. The EP submitted that "*SA 520 was meticulously followed*".
 - f. Para 4, 6, 7, 8 & 9 of SA 530²¹ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that "*scope of work & guidelines issued in the appointment letter*" addressed the requirements of SA 530. In the absence of any evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it, the contentions of the EP are without any basis. The contention that the basis of selection of the sample was defined in the appointment letter itself is wrong since the "*Guidelines for Statutory Audit of Branches*" issued along with the Appointment letter required the EP to verify several "random" loan accounts. However, the application of the statistical method of random sampling and the basis for the selection of the sampling method are nowhere evidenced in the Audit File.
 - g. Para 8, 9 & 10 of SA 580²² regarding obtaining written representations from the management about their responsibilities.
43. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 30 to 35 and Para 42 above read with the requirements of para 75 of SQC 1 and paras 14, 15 and A21 of SA 230 regarding the completion of the assembly of the final audit engagement files within 60 days after the date of the auditor's report.

¹⁹ SA 510, Initial Audit Engagements – Opening Balances

²⁰ SA 520, Analytical Procedures

²¹ SA 530, Audit Sampling

²² SA 580, Written Representations

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

44. Given the above-mentioned actions and omissions, it is established that CA P Rabi Kumar Patra did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP P Rabi Kumar Patra as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP P Rabi Kumar Patra committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

45. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.

46. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
47. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²³ in the larger public interest.
48. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
49. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA P Rabi Kumar Patra right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA P Rabi Kumar Patra has not adhered to the Standards on Auditing and the provisions of the law.
50. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
51. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that the professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA P Rabi Kumar Patra;

²³ As defined in Rule 3 of NFRA Rules 2018

- ii. CA P Rabi Kumar Patra is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

52. This order will become effective after 30 days from the date of issue of this order.

Sd/-
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA P Rabi Kumar Patra,
ICAI Membership No - 308396,
Partner, M/s ABPS & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 324706E)
(1) 182, Saheed Nagar,
Behind Alok Bharati Tower,
Bhubaneswar – 751007
(2) Penthakata, City Road,
Puri – 752003
Email: caabps@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 42/2023

Date: 29.09.2023

ORDER

In the matter of CA Nilesh Shah, ICAI Membership No. 107752 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 21.11.2022, issued to CA Nilesh Shah, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 107752) and was the Engagement Partner (EP) for the statutory audit of thirteen branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Nilesh Shah for his role as the Engagement Partner (EP) in the audit of thirteen branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant to an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Nilesh Shah, who was the EP for the audit of thirteen of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Nilesh Shah accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Nilesh Shah not only accepted a legally invalid appointment but also violated the provisions of the chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment, the Branch Audit performed by CA Nilesh Shah was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Nilesh Shah, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation and displayed a flawed understanding of standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Nilesh Shah a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the Statutory Auditor CAS. Accordingly, NFRA suo motu called for the audit files from the EPs who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Nilesh Shah, to whom this Order relates and who acted as the branch auditor for the thirteen branches of DHFL viz. Zone Dahisar, RPU Dahisar, Dahisar, Biosar, Mira Bhayondar, Nallasopara, Mumbai Metro, Andheri, Vasai, Nasik, Yavatmal, Aurangabad and Nagpur.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other

¹ As defined in para 6 of SA 230

applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.

9. As part of NFRA's investigations, CA Nilesh Shah was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The EP submitted the Audit File along with other information in respect of the thirteen branches for FY 2017-18 on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Nilesh Shah on 21.11.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of thirteen branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply by 20.12.2022 and he submitted his reply on 19.12.2022. The EP did not avail of the opportunity of a personal hearing before the Executive Body (EB) of NFRA. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

12. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

13. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as "Statutory Auditor for the branches" of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
14. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as "Statutory Auditor for the branches" of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an "Authorised Signatory" without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical

² As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, he also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.

15. The EP submitted that *“I wish to agree that I was not appointed as branch Statutory Auditor of the company for 2017-18 as required under section 139 of the Act with section 143(8) of Companies Act, 2013 in the Notice of 33rd AGM of DHFL held on 21/07/2017 as mentioned in page no 55/848 of the attached show cause notice. Kindly note that my appointment as Statutory Auditor of few branches of the company was for certain verification and certification and was done in consultation with the Statutory Auditors of the Company as per the appointment letter received from the company with a Copy marked to the Statutory Auditor of the Company.....”*
16. We have examined the replies of the EP. We find that as mentioned in para 14 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. The admission of the EP that he was not a Statutory Auditor shows the absence of professional behaviour and gross negligence on his part. Misconduct, arising out of gross negligence, implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession³. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as “certain verification and certification” work.
17. The below documents evidence that the EP accepted the subject matter audit assignment, acted and called himself as “Statutory Auditor for the Branches” of DHFL until an SCN was issued to him by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as "Statutory Auditor for the branches" at a "Statutory Audit Fees" of ₹2,85,000/-
2	Acceptance Letter	12.09.2017	Signed by Audit Firm accepting appointment as "Branch Statutory Auditor"
3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that <i>“Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”</i>
4	Confirmation letters issued to CAS	10.04.2018	EP confirms to CAS that <i>“we are aware that (i) the financial information of the branches for the...year ended 31st March, 2018 for which we have been engaged to perform audit, will be</i>

³ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

			<i>included in the financial statements of the Company for the...year ended 31st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for you report on your audit of the financial statements of the Company”.</i>
5	Independent Auditor’s Report	Branch Various dates for thirteen branches	EP certifies under “ <i>Auditor’s Responsibility</i> ” that “ <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance</i> ” and also certified the “ <i>true and fair view of the Branch as at 31st March 2018</i> ”.
6	Branch’s Financial Information Summary Memorandum	05.04.2018	EP certifies that “ <i>In our opinion, based on our audit, the financial information...as of 31st March, 2018 and for the year ended gives a true and fair view</i> ”.
7	EP’s communication to NFRA in response to NFRA letter seeking Audit File	Letter dated 24.08.2022 as received via email on 25.08.2022	States that “ <i>...find enclosed herewith following information / documents pertaining to the Statutory Audit of Branches of Dewan Housing Finance Corporation Limited for financial year 2017-18.</i> ”
8	“Form No. 3CA” issued by the EP and forming part of Audit File	Various dates for thirteen branches	States that “ <i>I report that the statutory audit of M/s. Dewan Housing Finance Corporation Limited (Vasai Branch), ... was conducted by me in pursuance of the provisions of the Companies Act, 2013...</i> ” Similar reports have been issued by the EP for other branches of DHFL, for which he was the EP.

Besides the above, the EP prepared a report titled “*Independent Branch Auditors’ Report*” on the accounts of the branch examined by him and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 of Companies (Audit and Auditors) Rules, 2014. Thus, the contention of the EP that the subject matter engagement was for “*certain verification and certification*” cannot be accepted.

18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁴ in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that “*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word “ascertain” means “to find out for certain”. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*”. It is evidenced by the instances listed in the Table above, the EP’s documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit. In FY 2015-16, the AGM specifically resolved to appoint separate Branch Statutory auditors and Company’s Auditors while in 2017-18 there was only one statutory auditor, i.e., CAS, for the Company and all its branches. It is thus evident that the EP, without even being aware of the change in mandate, continued his purported role as statutory auditor and issued the reports accordingly, but on receipt of the SCN, the EP tried to cover up the lapses by taking the plea that the audit was not a statutory audit.
20. As per Section 143 (8) of the Act, the appointment of Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company’s offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment, EP’s acceptance vide letter dated 12.09.2017 of the appointment as Statutory Auditor

⁴ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

of the branches and issuance of the “Independent Branch Auditor’s Report” for the thirteen Branches of DHFL, including the report required under CARO 2016, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁵. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act.. Therefore, we find that the charges in paras 13 and 14 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA Nilesh Shah was not as per the provisions of the Law, we now discuss the non-compliance by CA Nilesh Shah with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *“we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance”*. Since these branch audit reports are clearly referred to by Company’s Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

⁵ Independent Auditor’s Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

23. The EP was charged with non-compliance with SA 210⁶ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁷ as well. SA 210⁸ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
24. The EP in his three-page reply submitted the contentions as noted in para 15 above and stated that *“the appointment letter which was received from the company which covered the scope of the audit and format of certificates etc. which has been accepted by me in my acceptance letter”*.
25. The contention of EP is not acceptable. SA 210 casts a mandatory responsibility on the EP to issue an Engagement Letter. The terms provided by the Company cannot substitute these requirements on the EP.
26. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter⁹ (as prescribed by SA 210) was not found to have been issued by EP. Para 13 of SA 210 requires an assessment from the auditor of whether circumstances require the terms of the audit engagement to be revised and whether there is a need to remind the entity of the existing terms. There is no such assessment documented. In fact, between the financial years 2015-16 and 2017-18, the circumstances changed with respect to the scope of the engagement. In 2015-16, the AGM resolved to appoint separate auditors for the company and branches, while in subsequent years only one auditor was appointed for the company including all its branches. The EP failed to notice this critical change. The EP’s response above shows a flawed understanding of the scope of SA 210.
27. We conclude that EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above stand proved.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230¹⁰. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230,

⁶ SA 210, Agreeing the Terms of Audit Engagements.

⁷ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁸ Para 9, 10 and 11 of SA 210

⁹ The sample engagement letter provided in appendix I of SA 210 may be referred.

¹⁰ SA 230 – Audit Documentation

the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.

29. The EP submitted that *"I have submitted all audit working papers, certificates, reports etc. Also audit was planned and performed with professional competence, dedication and full integrity"*. In the absence of any explanations and specific replies to the charges, we examined in detail the audit file submitted by the EP and conclude as follows.
30. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and documented the conclusion, nature, timing and extent of the procedures performed, required by para 8 of SA 230, as detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
35. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹¹)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300

¹¹ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment

- c. Determination of materiality levels (refer to SA 320¹²)
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)
 - f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - h. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - i. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
36. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 29 regarding non-compliance with SA 230 stand established.
37. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹³ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since, the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁴.

¹² Sa 320, Materiality in Planning and Performing an Audit

¹³ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁴ Para 11 of SA 700

39. The EP submitted that *“I have done the audit as per the limited scope given to me in the appointment letter and performed my duty with honesty. Kindly note that the modified opinion was mentioned in the report wherever it was applicable and it was submitted previously to your office”*. In the absence of any explanations and specific replies to the charges, we examined in detail the audit file submitted by the EP and conclude as follows.
40. The EP has not determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed, and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. However, the EP issued an unmodified opinion without complying with the requirements of SA 700.
41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 38 above stand proved.

Non-compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:
- Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁶ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
 - Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - Non-compliance with para 5, 6 and 8 of SA 510 relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - Para 6 of SA 520¹⁷ relating to design and performance of analytical procedures.
 - Para 4, 6, 7, 8 & 9 of SA 530¹⁸ relating to the determination of sample design, sample size and required audit procedures.
 - Para 8, 9 & 10 of SA 580¹⁹ regarding obtaining written representations from the management about their responsibilities.
43. The EP submitted that *“I have obtained the audit evidence wherever it was required based on the materiality concept. Sir, with the above explanation, I have complied with the relevant SAs and I do not agree with the non-compliance as mentioned in the said show cause notice”*.
44. In the absence of any explanations and specific replies to the charges, in the absence of any evidence in the audit file, and for the reasons stated in Para 30 to 35 above regarding audit documentation we conclude that the EP failed to comply with the above requirements of the SAs.

¹⁵ SA 300, planning an Audit of Financial Statements.

¹⁶ SA 330, The Auditor's Responses to Assessed Risks

¹⁷ SA 520, Analytical Procedures

¹⁸ SA 530, Audit Sampling

¹⁹ SA 580, Written Representations

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

45. Given the above-mentioned actions and omissions, it is established that CA Nilesh Shah did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Nilesh Shah as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Nilesh Shah committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

46. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
47. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
48. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²⁰ in the larger public interest.
49. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports

²⁰ As defined in Rule 3 of NFRA Rules 2018

would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

50. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Nilesh Shah right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Nilesh Shah has not adhered to the Standards on Auditing and the provisions of the law.
51. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
52. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Nilesh Shah;
 - ii. CA Nilesh Shah is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
53. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi

Vidhu Sood
(Vidhu Sood)

सचिव/Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi
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To,
CA Nilesh Shah,
ICAI Membership No - 0107752,
Nilesh Shah, Chartered Accountants,
B-24, Shankar Vijay-1
Rajawadi Road, Ghatkopar East, Mumbai -400077.
Email: canileshshah1@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण /National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 35/2023

Date: 29.09.2023

ORDER

In the matter of CA Mohammad Ayub, ICAI Membership No. 092165 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA Mohammad Ayub, partner of M/s ABPS & Associates, (ICAI Firm Registration No: 324706E), who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 092165) and was the Engagement Partner (EP) for the statutory audit of three branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Mohammad Ayub for his role as the Engagement Partner (EP) in the audit of three branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Mohammad Ayub, who was the EP for the audit of three of the 250 branches of DHFL.

2. NFRA's investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Mohammad Ayub accepted the appointment, portrayed himself as "Branch Statutory Auditor" in all communications with the Company and CAS, and issued an "Independent Branch Auditor's Report". By doing so CA Mohammad Ayub not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required him to ensure a valid appointment as per the Act.
3. Notwithstanding his defective appointment, the Branch Audit performed by CA Mohammad Ayub was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Mohammad Ayub, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Mohammad Ayub a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have

occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA Mohammad Ayub, to whom this Order relates and who acted as the branch auditor for the three branches of DHFL at Ranchi, Durgapur and Patna.

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, the audit firm was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The Audit File along with other information in respect of the three branches for which CA Mohammad Ayub was the EP for FY 2017-18 was received on 25.08.2022.
10. The investigation by NFRA revealed prima facie that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Mohammad Ayub on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of three branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 18.11.2022 but was granted an extension of time following a request vide e-mail dated 17.11.2022. The EP submitted the reply on 04.12.2022.
12. The EP availed of the opportunity for a personal hearing and attended the personal hearing on 15.03.2023 before the Executive Body of NFRA. The EB brought to his notice that his written submissions stated that it was obvious for the Firm to believe that the Company

¹ As defined in para 6 of SA 230

must have complied with the provisions of Section 139. But, during the personal hearing, the EP categorically, parted from his written submissions and stated that non-verification of compliance with the applicable provisions was a “lacuna” on his part. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that “*When the Firm received the request from DHFL with a copy to its Company Statutory Auditor, it was nothing but obvious for the Firm to believe that the Company must have complied with the provisions of Section 139*”.
17. We observe from the replies of the EP, the appointment letter acknowledged by the audit firm and the “Independent Branch Auditors’ Report” issued by him that the engagement is clearly described as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)³ in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*".
20. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, the audit firm's acceptance vide letter dated 31.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the three Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS,

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA Mohammad Ayub was not as per the provisions of the Law, we now discuss the non-compliance by CA Mohammad Ayub with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the *"Independent Branch Auditors' Report"* stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

23. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

⁵ SA 210, Agreeing the Terms of Audit Engagements.

of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

24. Responding to the charges, the EP stated that the appointment letter issued by the Company contained a “*self-explanatory*” scope of work and guidelines for the audit. EP further submitted that he had “*constant discussion over telephone with branch management*” and “*audit was recurring in nature having no change in the objective and scope of audit, Terms of the audit engagement management, ownership, and having no significant change in nature or size of the branch’s business of the referred year in comparison to the previous years. Hence, the circumstances did not warrant a revision in audit engagement letter for the referred period as per the provisions of Para 13 of SA 210*”.
25. The contention of EP is not acceptable. The appointment letter makes it clear that “*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*” Thus, the subject matter assignment was not limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of a proper description of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter (as prescribed by SA 210)⁸ was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.
26. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company’s auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This called for the application of para 13 of SA 210.
27. The EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230⁹. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. Responding to the charges, the EP denied all the charges and submitted that “*the assignment being repetition in nature, documents compiled in the Audit File is sufficient as far Branch Statutory Audit is concerned*”. Hence, all the necessary basic documentation was referred to from the audit file of the last year(s).
30. The EP’s contention is not acceptable in view of the absence of any documentation in this regard. On a specific query in this regard during the oral hearing, the EP stated that there was no such reference to the previous year’s files in the current year’s audit file. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and as required by para 8 of SA 230 documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor’s basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 mandates that the

⁹ SA 230 – Audit Documentation

auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.

33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
35. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹⁰).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹¹). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
36. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 above regarding non-compliance with SA 230 stand established.
37. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the

¹⁰ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹¹ SA 320, Materiality in Planning and Performing an Audit

very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.
39. The EP replied that *“Compliance of SA 700 has to be looked into in the context of scope, size, function, time constraints, guidelines of statutory auditors and the financial statements to be audited by the Branch Auditors.”*
40. The EP has not even determined any planning and performance materiality in terms of SA 320. EP’s audit documentation nowhere specified any criterion¹⁴ for the selection of “random” loan samples for verification. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the contention of the EP that *“Report was prepared*

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

¹⁴ SA 530, Audit Sampling

on reasonable assurance that the financial statement expresses a fair and correct view” is baseless and the EP issued an opinion without complying with the requirements of SA 700.

41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 38 above regarding non-compliance with SA 700 stand proved.

Non-compliance with other SAs

42. The EP was charged with non-compliance with the following provisions of SAs:

- a. Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that *“there was an overall strategy setting scope, timing direction of the audit and developing the audit program”*. The *“Audit Programme”* available in the audit file does not comply with SA 300, as it is made without first complying with SA 300, SA 315 and SA 330 viz. considering results of preliminary engagement activities¹⁶, planning nature, timing and extent of direction and supervision of engagement team members and review of their work¹⁷.
- b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁸ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that *“as majority of the decision were not taken at the branch level most of the risk at branch level has been eliminated”*. EP’s contentions cannot be accepted in the absence of any working papers in the Audit File to satisfy the mandatory documentation requirements of SA 315 and 330 viz. (1) discussion among the engagement team, (2) key elements of the understanding obtained, (3) risk assessment procedures performed, risks identified, and related controls about which the auditor has obtained an understanding, etc.
- c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. The EP submitted that *“many factors in SA 320, as far as materiality is concerned, does not fall within the ambit of Branch Statutory Audit of DHFL branches”*. Mandatory documentation requirements of SA 320 include (1) the factors considered in the determination of materiality, (2) materiality for the financial statements as a whole, (3) the materiality level or levels for particular classes of transactions, account balances or disclosures, (4) performance materiality and (5) any revision of the materiality amounts as the audit progress. The audit file in the present case lacked such mandatory documentation. Thus, EP’s claims cannot be accepted.

¹⁵ SA 300, Planning an Audit of Financial Statements.

¹⁶ Para 7 of SA 300

¹⁷ Para 10 of SA 300

¹⁸ SA 330, The Auditor’s Responses to Assessed Risks

- d. Para 5, 6 and 8 of SA 510¹⁹ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances. The EP submitted that “*I was the auditor of the same branches for the financial year 2016-17 (previous year) also*” so all documents were available with him. EP’s contention cannot be accepted since to evidence compliance with the requirements of the SAs, it is the fundamental stipulation of SA 230 that the auditor shall assemble the audit documentation in an audit file (and not multiple audit files of different years). If permanent working papers are maintained in the previous year’s audit file, proper reference to the same shall be made in the current year’s audit file, so that, the nature, timing and extent of the audit procedures performed are properly documented.
 - e. Para 6 of SA 520²⁰ relating to the design and performance of analytical procedures.
 - f. Para 4, 6, 7, 8 & 9 of SA 530²¹ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that “*scope of work & guidelines issued in the appointment letter*” addressed the requirements of SA 530. In the absence of any evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it, the contentions of the EP are without any basis. The contention that the basis of selection of the sample was defined in the appointment letter itself is wrong since the “*Guidelines for Statutory Audit of Branches*” issued along with the Appointment letter required the EP to verify several “random” loan accounts. However, the application of the statistical method of random sampling and the basis for the selection of the sampling method are nowhere evidenced in the Audit File.
 - g. Para 8, 9 & 10 of SA 580²² regarding obtaining written representations from the management about their responsibilities.
43. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 30 to 35 and Para 42 above read with the requirements of para 75 of SQC 1 and paras 14, 15 and A21 of SA 230 regarding the completion of the assembly of the final audit engagement files within 60 days after the date of the auditor’s report.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

44. Given the above-mentioned actions and omissions, it is established that CA Mohammad Ayub did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the

¹⁹ SA 510, Initial Audit Engagements – Opening Balances

²⁰ SA 520, Analytical Procedures

²¹ SA 530, Audit Sampling

²² SA 580, Written Representations

requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Mohammad Ayub as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of the Part I of Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Mohammad Ayub committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

45. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
46. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
47. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²³ in the larger public interest.
48. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware

²³ As defined in Rule 3 of NFRA Rules 2018

that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

49. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Mohammad Ayub right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Mohammad Ayub has not adhered to the Standards on Auditing and the provisions of the law.
50. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
51. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that the professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of **₹ 100,000 (One Lakh)** upon CA Mohammad Ayub;
 - ii. CA Mohammad Ayub is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
52. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)

Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)

Full-Time Member

Sd/-

(Smita Jhingran)

Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023

Place: New Delhi


(Vidhu Sood)

Secretary
सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Mohammad Ayub,
ICAI Membership No - 092165,
Partner, M/s ABPS & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 324706E)
(1)182, Saheed Nagar,
Behind Alok Bharati Tower,
Bhubaneswar – 751007
(2)1968/2954, Jharpara,
Bhubaneswar – 751006
Email: caabps@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 48/2023

Date: 29.09.2023

ORDER

In the matter of CA Mangesh Vitthal Kekre, ICAI Membership No. 403739 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 21.11.2022, issued to CA Mangesh Vitthal Kekre, partner of M/s Mangesh V Kekre & Associates, (ICAI Firm Registration No: 012530C), Indore, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 403739) and was the Engagement Partner (EP) for the statutory audit of seventeen branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Mangesh Vitthal Kekre for his role as the Engagement Partner (EP) in the audit of seventeen branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had relied on these so-called Branch Audits. NFRA investigated these EPs responsible for branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Mangesh Vitthal Kekre, who was the EP for the audit of seventeen of the 250 branches of DHFL.

2. NFRA's investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Mangesh Vitthal Kekre accepted the appointment, portrayed himself as "Branch Statutory Auditor" in all communications with the Company and CAS, and issued an "Independent Branch Auditor's Report". By doing so CA Mangesh Vitthal Kekre not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.
3. Notwithstanding his defective appointment, the Branch Audit performed by CA Mangesh Vitthal Kekre was investigated by NFRA from the standpoint of the EP's compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Mangesh Vitthal Kekre, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Mangesh Vitthal Kekre a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for six months from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have

occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA Mangesh Vitthal Kekre, to whom this Order relates and who acted as the branch auditor for the seventeen branches of DHFL – Solapur, Sangareddy, Panjim / Goa, Kolhapur, Nizamabad, Karimnagar, Jalgoan, Visakhapatnam, Warangal, Ahmednagar, Vizianagaram, Ratnagiri, Akola, Sangli, Parbhani, Visakhapatnam – Siripuram Branch and Raipur.

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, CA Mangesh Vitthal Kekre was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The EP submitted the Audit File along with other information in respect of the seventeen branches for FY 2017-18 on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Mangesh Vitthal Kekre on 21.11.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of seventeen branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 20.12.2022 but was granted an extension of time following a request vide e-mail dated 19.12.2022. The EP submitted the reply on 07.01.2023.

¹ As defined in para 6 of SA 230

12. The EP availed of the opportunity for a personal hearing and attended the personal hearing on 14.03.2023 before the Executive Body. During the personal hearing, the EP reiterated his written replies to the SCN. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In response, the EP submitted that *“the communication of the appointment as Statutory Auditor was made by the senior designated authorities of the Company There was no reason for the engagement partner to doubt the legality of the appointment made by DHFL at that point. ...I must admit that I am surprised to note that the necessary resolutions were not passed by the company in that year and despite this the communication of appointment was made by their senior officials under a CC to the then CAS ...I further understand that the act of appointing & communicating the appointment as the statutory auditors of the DHFL for FY 2017 - 2018 without the approval of the shareholders/ members of the Company was clear violation of the act done by the officers/authorities of the company. This act is directly hit by the Doctrine of Indoor Management, which offers immunity to the*

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

people like us being an equal "victim" of the situation and an "Outsider" against the actions/inactions done by the Company. So far as the compliance of SA 200, I state that the I have acted in good faith & performed all my duties with complete due diligence and has also complied with the various provisions of the Companies Act and Rule framed thereunder. [except those resulted due to misinterpretation of the provisions of Section 22 of CA Act 1949_Part I_Clause (9)]".

17. The EP also submitted during the oral hearing that a mistake was committed regarding compliance with the Chartered Accountants Act, 1949 wherein he was required to verify compliance with the Companies Act, 2013, but he did not do it because such non-compliance was not expected from the company and there was a lack of awareness regarding the provisions.
18. The EP's admission that he did not verify the compliance with the Act regarding his appointment proves the charges in para 14 & 15 above. On examination of the replies of the EP, the appointment letter acknowledged by the EP and the "Independent Branch Auditors' Report" issued by him clearly described the engagement as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct)³ a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013) in respect of such appointment have been duly complied with.
20. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*".
21. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, EP's acceptance vide letter dated 13.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the seventeen Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

22. The '*doctrine of indoor management*' is not applicable in this case in view of the specific requirement of the CAs Act as stated above, which casts a positive obligation on the part of the EP to verify compliance with the Act regarding his appointment.
23. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

24. Notwithstanding our finding in Part I above that the appointment of CA Mangesh Vitthal Kekre was not as per the provisions of the Law, we now discuss the non-compliance by CA Mangesh Vitthal Kekre with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that "*we have taken into account provisions of the Act, the accounting and auditing standards and matters which are*

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance". Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

25. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
26. Responding to the charges, the EP stated that the appointment letter and its acceptance by the EP contained all the required details as per SA 210. He further submitted that *"no additional written agreements were required as such because the scope & responsibilities were already prescribed in sufficient details under the law and regulations laid down in this regard. (Para 10 – SA 210)...I accepted the terms of engagement and returned a signed copy to the company along with audit acceptance letter. Therefore, saying that terms of engagement were not obtained in writing would be grossly incorrect and unfair as well".*
27. The contention of EP is not acceptable. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

deficient in terms of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework⁸. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The EP's response above shows a flawed understanding of the scope of SA 210.

28. Para 10 of SA 210 which refers to para 11 of the SA quoted by the EP to support the contentions, states that if **law or regulation prescribes in sufficient detail the terms of the audit engagement referred to in paragraph 10**, the auditor need not record them in a written agreement, except for the fact that such law or regulation applies and that management acknowledges and understands its responsibilities. While the EP admits that the engagement was a branch statutory audit under section 143(8) of the Act, the EP ignored that para 11 of SA 210 can be invoked only if the terms of audit engagement such as the objective of the audit, the responsibilities of management, applicable financial reporting framework and expected form and contents of the audit report are prescribed by the Law, i.e., Section 143(8) of the Act. This was not the case here since the scope of the audit included statutory branch audits and certain additional specific tasks.
29. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. The EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 25 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

30. The EP was charged with non-compliance with SA 230⁹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
31. Responding to the charges, the EP denied all the charges and submitted that all the required procedures were duly done. He states that was appointed as auditor for the same branches in the previous year 2016-17 as well. Hence, all the necessary basic documentation was referred to from the audit file of the last year.

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

⁹ SA 230 – Audit Documentation

32. The EP's contention that "*my team referred to the audit documentation done for the FY 2016-17*" is not acceptable in view of the absence of any documentation in this regard. On a specific query in this regard during the Oral hearing, the EP stated that there was no such reference to the previous year's files in the current year's audit file. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and, as required by Paragraph 8 of SA 230, documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
33. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
34. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Paragraph 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
35. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
36. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
37. The Audit File does not contain the basic documentation such as:

- a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹⁰).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹¹). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
38. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 30 above regarding non-compliance with SA 230 stand established.
39. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states “*Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review... ..the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the*

¹⁰ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹¹ SA 320, Materiality in Planning and Performing an Audit

Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

40. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. In the audit file for the Ahmednagar Branch, the EP noted that *“File/Document Not Received at Branch”* for 5 out of the top 20 outstanding loan file samples verified. However, the EP did not document how this deficiency in the documentation was evaluated in forming an unmodified opinion. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.
41. The EP replied that *“Only 05 files could not be made available at the branch location till the closure of the audit and signing of the audit report for some operational reasons. I made my professional judgement and found that in terms of Value/Numbers, these 05 files taken together amounted to less than 03% of the branch business. I did not find the same “material” and therefore I restricted my reporting to the non-availability of files in the certificate...I mentioned the fact in the annexure to my audit report suitably with a clear remark – “Files/documents not received at branch”.*
42. The EP has not even determined any planning and performance materiality in terms of SA 320. Thus, the contention of the EP that irregularities observed during the audit were not material in terms of SA 320 cannot be accepted. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In view of the deficiencies in documents noted by the EP, the assertion of the existence of these loans was required to be ensured through additional procedures as it may constitute a material misstatement in the Branch books, the impact of which is not documented by the EP. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the contention of the EP that *“I reported the events properly and as I believed that I have enough evidence to form opinion”* is baseless since the EP issued an unmodified opinion without complying with the requirements of SA 700.
43. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls and based on the

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

contradictory evidence mentioned in para 40 above, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 40 above regarding non-compliance with SA 700 stand proved.

44. We also note that such lapses relating to the verification of documents during the audit are viewed seriously by audit regulators. A Chartered Accountant, in the audit of a Bank branch, did not verify the securities for debts and was held guilty of professional misconduct of absence of due diligence and gross negligence. (A.N.Kapur -vs.- R.N. Budhiraja; Page- 374 of Vol. IX (1) of the Disciplinary Cases- ICAI Council's decision dated 11th and 12th April 2008).

Non-Compliance with other SAs

45. The EP was charged with non-compliance with the following provisions of SAs:
- a. Para 6, 7, 8, 9 & 10 of SA 300¹⁴ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁵ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - d. Para 5, 6, 8, 14 & 15 of SA 450¹⁶ absent the evaluation of identified misstatements and uncorrected misstatements.
 - e. Para 6 & 9 of SA 500¹⁷ in not designing and performing audit procedures to obtain sufficient appropriate audit evidence and not evaluate the reliability of information produced by the company.
 - f. Para 5, 6 and 8 of SA 510¹⁸ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - g. Para 6 of SA 520¹⁹ relating to design and performance of analytical procedures.
 - h. Para 4, 6, 7, 8 & 9 of SA 530²⁰ relating to the determination of sample design, sample size and required audit procedures.
 - i. Para 8, 9 & 10 of SA 580²¹ regarding obtaining written representations from the management about their responsibilities.
46. The EP replied that *"there is no such non-compliance. In fact, all these SAs were applicable in the FY 2016-17 also and therefore complied with strictly in lines with FY 2016-17."*

¹⁴ SA 300, planning an Audit of Financial Statements.

¹⁵ SA 330, The Auditor's Responses to Assessed Risks

¹⁶ SA 450, Evaluation of Misstatements Identified during the Audit

¹⁷ SA 500, Audit Evidence

¹⁸ SA 510, Initial Audit Engagements – Opening Balances

¹⁹ SA 520, Analytical Procedures

²⁰ SA 530, Audit Sampling

²¹ SA 580, Written Representations

47. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 32 to 38 above read with the requirements of para 75 of SQC 1 and paras 14, 15 and A21 of SA 230 regarding the completion of the assembly of the final audit engagement files within 60 days after the date of the auditor's report.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

48. Given the above-mentioned actions and omissions, it is established that CA Mangesh Vitthal Kekre did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Mangesh Vitthal Kekre as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of the Part I of Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Mangesh Vitthal Kekre committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

49. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
50. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
51. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²² in the larger public interest.
52. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
53. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Mangesh Vitthal Kekre has not adhered to the Standards on Auditing and the provisions of the law.
54. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
55. We also note that the EP admitted his mistake in acceptance of the audit. Considering the fact that the EP has admitted his mistakes regarding the acceptance of the engagement and that professional misconduct has been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:

²² As defined in Rule 3 of NFRA Rules 2018

- i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Mangesh Vitthal Kekre;
- ii. CA Mangesh Vitthal Kekre is debarred for **six months** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

56. This order will become effective after 30 days from the date of issue of this order.

Sd/-
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Mangesh Vitthal Kekre,
ICAI Membership No - 403739,
Partner, M/s Mangesh V Kekre & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 012530C)
607, Chetak Center,
RNT Marg, Indore-452001.
MP.
Email:ca.mangesh@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

सचिव, वित्त विभाग, भारत सरकार
National Financial Reporting Authority
एन.एफ.आर.ए. नई दिल्ली

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 41/2023

Date: 29.09.2023

ORDER

In the matter of CA M. Vaman Kamath, ICAI Membership No. 023992 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 21.11.2022, issued to CA M. Vaman Kamath, partner of M/s Kamath & Kamath Associates, (ICAI Firm Registration No: 001685S), Kanpur, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 023992) and was the Engagement Partner (EP) for the statutory audit of ten branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA M. Vaman Kamath for his role as the Engagement Partner (EP) in the audit of ten branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz. CAS had referred to these so-called Branch Audits. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA M. Vaman Kamath, who was the EP for the audit of ten of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA M.

Vaman Kamath accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA M. Vaman Kamath not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment the Branch Audit performed by CA M. Vaman Kamath was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA M. Vaman Kamath, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation to support his audit opinion that established the EP’s professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA M. Vaman Kamath a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate’s reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were

¹ As defined in para 6 of SA 230

referred to by the Statutory Auditor CAS. Accordingly, NFRA suo motu called for the audit files from the EPs who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA M. Vaman Kamath, to whom this Order relates and who acted as the branch auditor for the ten branches of DHFL at Hubballi, Mysore FB - Saraswathipuram, Hosur, Bijapur, Bellary, Mangaluru, Davangere, Maysuru, Shivamoga and Belgaum.

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, CA M. Vaman Kamath was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The EP submitted the Audit File along with other information in respect of the ten branches for FY 2017-18 on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA M. Vaman Kamath on 21.11.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of ten branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply by 20.12.2022 but was granted an extension of time following a request vide e-mail dated 17.12.2022. The EP submitted the reply on 18.01.2023.
12. The EP did not avail the opportunity for a personal hearing before the Executive Body (EB) of NFRA. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, he also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
16. In his written reply to this charge, the EP submitted that *“there was no reason for us to believe that the same was not done according to the requirements of Companies Act... We prima facie relied on the compliance for appointment and other matter to be done by the CSAs [Chaturvedi&Shah] as they relied on our Reports and referred the same in their Audit Report...our appointment was not as the Auditor of the company but as a Branch Auditor”*.
17. On examination of the replies of the EP, we find that as mentioned in para 14 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him, clearly described the engagement as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)³ in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that *“Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain*

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections".

20. As per Section 143 (8) of the Act, the appointment of Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment, EP's acceptance vide letter dated 07.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the ten Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA M. Vaman Kamath was not as per the provisions of the Law, we now discuss the non-compliance by CA M.

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

Vaman Kamath with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

23. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

24. Responding to the charges, the EP stated that *“Since the scope of work was mentioned specifically in the instructions no separate engagement letter informing about the management responsibility has been made by us”*.
25. The reply of the EP confirms the absence of an Engagement Letter as mandated under SA 210. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not meet all the requirements of Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter⁸ (as prescribed by SA 210) was not issued by EP. The EP’s response above also shows a flawed understanding of the scope of SA 210.
26. Para 13 of SA 210 requires an assessment from the auditor of whether circumstances require the terms of the audit engagement to be revised and whether there is a need to remind the entity of the existing terms. There is no such assessment documented. In fact, between the financial years 2015-16 and 2017-18, the circumstances changed with respect to the scope of the engagement. In 2015-16, the AGM resolved to appoint separate auditors for the company and branches, while in subsequent years only one auditor was appointed for the company including all its branches. The EP failed to notice this critical change.
27. We conclude that EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope⁹ of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230¹⁰. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. The EP denied all the charges and submits that all the required procedures were duly done. He states that *“we have not audited the financial statements but only verified the correctness of the Trial Balance...Audit of branches have been conducted in earlier years also the engagement partner had full knowledge of the clients business and accounting*

⁸ The sample engagement letter provided in Appendix I of SA 210 may be referred.

⁹ The scope included statutory compliance and other specific requirements as provided in the appointment letter.

¹⁰ SA 230 – Audit Documentation

procedures. Audit procedures have conducted as per set of instructions received...work was supervised and reviewed by the engagement partner”

30. The EP prepared a report on the accounts of the branch examined by him and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 “Duties and Powers of the Company’s Auditor with Reference to the Audit of the Branch and the Branch Auditor” of the Act. Thus, the contention of the EP that he “*only verified the correctness of the Trial Balance*” cannot be accepted. Besides, there is no evidence in the Audit File to indicate that the EP had performed audit procedures and documented the conclusion, nature, timing and extent of the procedures performed, as required by para 8 of SA 230, detailed below.
31. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor’s basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
32. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.
33. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
34. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
35. The Audit File does not contain some of the basic documentation such as:

- a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹¹). The EP submitted that *“we have not certified financial statements for the risk of material misstatement nor have we expressed our opinion on the same.”* The EP’s contention is not supported by evidence since in the *“Independent Branch Auditor’s Report”* issued by him the EP has certified that *“We conducted our audit in accordance with the Standards on Auditing specified under Section 143(10) of the Act.... The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal financial control relevant to the Company’s preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances... We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion on the financial statements”* and also opined on the *“true and fair view of the branch as at the 31st March, 2018”*.
 - b. Audit plan made after understanding the branch operations in accordance with SA 300.
 - c. Determination of materiality levels (refer to SA 320¹²)
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)
 - f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - h. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - i. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
36. In the absence of documentation of the audit procedures as per SA 230, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 above regarding non-compliance with SA 230 stand established.
37. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit

¹¹ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹² Sa 320, Materiality in Planning and Performing an Audit

regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review...the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

38. The EP was charged with non-compliance with SA 700. As per SA 700¹³ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. In the Annexures to the audit report, the EP noted that for some of the loan files the required documents were not obtained. For instance, for several loan files of Belgaum Branch, EP noted observations viz. *“insurance copies not found”, “legal scrutiny report not found”, “encumbrance certificate not found”, “loan agreement not filled completely”, “details in loan agreement are left blank”*, etc. Similar observations were noted for other branches as well, referring to non-availability of original title deeds and unjustified estimated value in loan files, etc. However, the EP did not document how this deficiency in documentation was evaluated in forming an unmodified opinion. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁴.
39. The EP replied that *“adversity in the loans that were given has been brought to the notice of CSAs to take necessary appropriate decision.”*
40. The EP has not determined any planning and performance materiality in terms of SA 320. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of deficiencies in loan documentation, the assertion of the existence of these loans was required to be ensured through additional procedures as it may constitute a material misstatement in the Branch books, the impact of which is not documented by the EP. In the absence of documented

¹³ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁴ Para 11 of SA 700

procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information of the branch is free from material misstatements. However, the EP issued an unmodified opinion without complying with the requirements of SA 700.

41. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls and based on the contradictory audit evidence mentioned in para 38 above, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 38 regarding non-compliance with SA 700 stand proved.
42. We also note that such lapses relating to the verification of documents during the audit are viewed seriously by audit regulators. A Chartered Accountant, in the audit of a Bank branch, did not verify the securities for debts and was held guilty of professional misconduct of absence of due diligence and gross negligence. (A.N.Kapur -vs.- R.N. Budhiraja; Page- 374 of Vol. IX (1) of the Disciplinary Cases- ICAI Council's decision dated 11th and 12th April 2008).

Non-compliance with other SAs

43. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that *"entire audit strategy and planning of the company was done by Central Statutory Auditor through set of instructions and directions which were given to us"*. The EP's contention is not acceptable in the absence of any documented Audit Plan and Audit Strategy in the Audit File of the EP.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁶ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that *"advances that have been verified by us is as per the instructions of the central statutory auditor."* The EP's contention cannot be accepted in the absence of any working papers to support mandatory documentation requirements of SA 315 and SA 330. The audit file in the present case did not indicate that EP had performed audit procedures and documented the conclusion, nature, timing and extent of the audit procedures performed viz. (a) discussion among the engagement team, (b) key elements of the understanding obtained, (c) risk assessment procedures performed, risks identified, and related controls about which the auditor has obtained an understanding, etc. Besides, there is no documentation in the audit file to support that an assessment of the Internal Control System was actually performed for the subject matter audit.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. The EP submitted that it was the *"responsibility"* of the

¹⁵ SA 300, planning an Audit of Financial Statements.

¹⁶ SA 330, The Auditor's Responses to Assessed Risks

Central Statutory Auditor. EP's contentions cannot be accepted since neither there was any communication of materiality by the CAS, nor any determination of materiality, complying with SA 320, was documented by the EP in the Audit File.

- d. Para 5, 6, 8, 14 & 15 of SA 450¹⁷ absent the evaluation of identified misstatements and uncorrected misstatements. The EP submitted that *"we have verified only the Trial Balance and as such evaluation of identified misstatement and uncorrected misstatement did not arise."* In the absence of (a) documented conclusions on the observations noted by the EP in respect of several loan files (as detailed in para 38 above) and of (b) working papers fulfilling mandatory documentation requirements of SA 450, EP's claims cannot be accepted.
- e. Para 6 & 9 of SA 500¹⁸ in not designing and performing audit procedures to obtain sufficient appropriate audit evidence and not evaluate the reliability of information produced by the company. The EP submitted that *"There was no reason for us to believe that the information available to us was Unreliable."* In view of the unresolved observations noted by the EP in respect of several loan files as detailed in para 38 above and the absence of any documented conclusions thereon, EP's response cannot be accepted.
- f. Non-compliance with para 5, 6 and 8 of SA 510 relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances. The EP submitted that *"We have conducted audit of the said branch earlier. Trial Balance was available with us"*. In the absence of evidence in the current year's Audit File or a proper reference to the working papers maintained in the previous year's audit file, the EP's contention cannot be accepted.
- g. Para 6 of SA 520¹⁹ relating to the design and performance of analytical procedures. The EP submitted that *"analytical Procedure performed at the branch was limited to the instructions received"*. SA 520 requires the auditor to design and perform audit procedures to obtain sufficient appropriate audit evidence using substantive analytical procedures on which to base the audit opinion. In the absence of any evidence in the audit file, the EP's contention cannot be accepted.
- h. Para 4, 6, 7, 8 & 9 of SA 530²⁰ relating to the determination of sample design, sample size and required audit procedures. The EP submitted that *"our audit was limited to the extent of verification of system generated Trial Balance and Certain advances"*. The EP's contention cannot be accepted for two reasons. (1) The *"Guidelines for Statutory Audit of Branches"* issued by DHFL along with the Appointment letter required from the EP that *"Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors..."*. Thus, the audit scope was not limited but extended. (2) The *"guidelines"* issued by DHFL required the EP to verify several *"random"* loan accounts. However,

¹⁷ SA 450, Evaluation of Misstatements Identified during the Audit

¹⁸ SA 500, Audit Evidence

¹⁹ SA 520, Analytical Procedures

²⁰ SA 530, Audit Sampling

the application of the statistical method of random sampling and the basis for the selection of the sampling method are nowhere evidenced in the Audit File.

- i. Para 8, 9 & 10 of SA 580²¹ regarding obtaining written representations from the management about their responsibilities. The EP submitted that “*No separate written representation had been obtained from the management as it was their responsibility to provide us the information*”. In disregard of mandatory requirements of SA 580 is on the EP and hence, EP’s response only establishes his negligence.
44. Based on the reasons stated in para 33 to 38 and para 43 above, the replies of the EP are not accepted. Hence it is proved that the EP did not comply with the SAs as charged in para 43 above.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

45. Given the above-mentioned actions and omissions, it is established that CA M. Vaman Kamath did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP M. Vaman Kamath as contained under the Articles of Charges in the SCN are established.
- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
 - b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
 - c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
 - d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

²¹ SA 580, Written Representations

Thus, we find that EP M. Vaman Kamath committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

46. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
47. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
48. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²² in the larger public interest.
49. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
50. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA M. Vaman Kamath right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also find that he made conflicting statements in his written submissions and during the personal hearing before the EB, further indicating unprofessionalism on his part. We conclude that despite being a qualified professional, CA M. Vaman Kamath has not adhered to the Standards on Auditing and the provisions of the law.
51. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
52. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved, considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the

²² As defined in Rule 3 of NFRA Rules 2018

exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:

- i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA M. Vaman Kamath;
- ii. CA M. Vaman Kamath is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

53. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

To,
CA M. Vaman Kamath,
ICAI Membership No - 023992,
Partner, Kamath & Kamath Associates,
Chartered Accountants,
ICAI Firm Registration Number: 001685S
No – 13/14, III Floor,
Manasa Towers, MG Road,
Mangalore-575003
Email: kamathtax@gmail.com
kamthi@gmail.com

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Securities and Exchange Board of India, Mumbai.
- (iii) Reserve Bank of India
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

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भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण /National Financial Reporting Authority

**7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi**

Order No. 34/2023

Date: 29.09.2023

ORDER

In the matter of CA Harish Sharma, ICAI Membership No. 403129 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 21.11.2022, issued to CA Harish Sharma, partner of M/s R. Shah & Co. (Audit Firm), (ICAI Firm Registration No: 502010C), who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 403129) and was the Engagement Partner (EP) for the statutory audit of twelve branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Harish Sharma for his role as the Engagement Partner (EP) in the audit of twelve branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the "Independent Branch Auditors' Report" for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so called Branch Audits. NFRA investigated these EPs under section 132 (4) of the Companies Act, 2013 (the Act), including CA Harish Sharma, who was the EP for the audit of twelve of the 250 branches of DHFL.

2. NFRA's investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Harish Sharma accepted the appointment, portrayed himself as "Branch Statutory Auditor" in all communications with the Company and CAS, and issued an "Independent Branch Auditor's Report". By doing so, CA Harish Sharma not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.
3. Notwithstanding his defective appointment, the Branch Audit performed by CA Harish Sharma was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Harish Sharma, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation and displayed a flawed understanding of standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Harish Sharma a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for one year from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have

occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the Statutory Auditor CAS. Accordingly, NFRA suo motu called for the audit files from the EPs who had signed the “Independent Branch Auditors’ Report” for nearly 250 branches, under Section 132(4) of the Act, including CA Harish Sharma, to whom this Order relates and who acted as the branch auditor for the twelve branches of DHFL at RPU Chandigarh, Chandigarh- Madhya Marg, Chandigarh, P&Sb Chand Synd, Kurnool, Nellore, Rajahmundry, Guntur, Vijayawada, Tirupati, Kadappa and Zone North.

8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.
9. As part of NFRA’s investigations, CA Harish Sharma was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days’ time. The EP submitted the Audit File along with other information in respect of the twelve branches for FY 2017-18 on 26.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Harish Sharma on 21.11.2022 via email and also via speed post, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of twelve branches of DHFL for the FY 2017-18. However, it was informed by CA Adityendra Soni, EP’s partner who had accepted the subject matter audit assignment on behalf of the audit firm, that the email ID provided to NFRA by him on 02.09.2022 for contacting the EP was incorrect. Thus, SCN sent via NFRA's mail dated 21.11.2022 was forwarded to the new email ID provided by him on 24.11.2022. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.

¹ As defined in para 6 of SA 230

11. The EP was asked to submit his reply by 20.12.2022 and he submitted his reply on 24.12.2022. The EP did not avail of the opportunity of a personal hearing before the Executive Body (EB) of NFRA. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

12. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

13. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as “Statutory Auditor for the branches” of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
14. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as “Statutory Auditor for the branches” of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, he also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.
15. In his written reply to this charge, the EP submitted that *“I wish to agree with you that we were not appointed statutory auditors of the company or its branches. The company has appointed my firm for limited purpose of certification and verification of details as provided in appointment letter...the formats provided by the company and as certified by me were not part of submission to any of the statutory authority”*.
16. We have examined the replies of the EP. We find that as mentioned in para 14 above, the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. The contention of the EP now that he was not a Statutory Auditor shows the absence of professional behaviour and gross negligence. Misconduct, arising out of gross negligence,

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession³. His failure to act honestly and reasonably is established by the fact that despite the clear communications by the Company and CAS that the engagement is a statutory audit, the EP now describes it as an engagement entailing limited “*certification and verification of details*”.

17. The below documents evidence that the EP accepted the subject matter audit assignment, acted and called himself as “Statutory Auditor for the Branches” of DHFL until an SCN was issued to him by NFRA:

S.NO.	Name/Nature of Document	Document Date	Details of document
1	Appointment Letter	23.08.2017	Appoints the audit firm as “ <i>Statutory Auditor for the branches</i> ” at a “ <i>Statutory Audit Fees</i> ” of ₹2,50,000/-
2	Acceptance Letter	16.09.2017	Signed by Audit Firm accepting appointment as “ <i>Branch Statutory Auditor</i> ”
3	Guidelines for Statutory Audit of Branches	Issued along with appointment letter dated 23.08.2017	States that “ <i>Besides statutory compliance and requirements there are certain specific areas which have to be looked into and verified by the Statutory Auditors... </i> ”
4	Confirmation letters issued to CAS	On various dates for twelve branches	The EP and the Audit Firm confirm to CAS that “ <i>we are aware that (i) the financial information of the branches for the...year ended 31st March, 2018 for which we have been engaged to perform audit, will be included in the financial statements of the Company for the...year ended 31st March, 2018 and (ii) our report on our audit of the financial information of the branches will be referred to by you as a basis, in part, for you report on your audit of the financial statements of the Company</i> ”.

³ Cited in ICAI Code of Ethics, Registrar of Companies, Bihar vs. M.N. Basu - Page 323 of Vol. IV of the Disciplinary Cases, ICAI vs B. L. Khanna (Delhi High Court).

5	Independent Branch Auditor's Report	On various dates for twelve branches	EP certifies under " <i>Auditor's Responsibility</i> " that " <i>we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance</i> " and also certified the " <i>true and fair view of the Branch as at 31st March 2018</i> ".
6	"Certificate" issued by the EP in relation to loans issued by the DHFL branches	On various dates for different branches	EP certifies for various branches that " <i>We have carried out the statutory audit of ... branch of Dewan Housing Finance Corporation Limited for the year ended on 31st March, 2018</i> ".
7	"Form No. 3CA" issued by the EP and forming part of Audit File	On various dates for different branches	States that " <i>We report that the statutory audit of DEWAN HOUSING FINANCE CORP. LTD., (KADAPPA BRANCH) ... was conducted by us in pursuance of the provisions of the Companies Act 2013... </i> ". Similar reports have been issued by the EP for other branches of DHFL, for which he was the EP.

Besides the above, the EP prepared a report titled "Independent Branch Auditors' Report" on the accounts of the branch examined by him and sent it to the auditor of the company as is required by the proviso to Section 143(8) read with Rule 12 of Companies (Audit and Auditors) Rules, 2014. Thus, the contention of the EP that the subject matter engagement was for limited "*certification and verification of details*" cannot be accepted. Besides, the branch audit reports issued by the EP are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company. So, the EP's contention that the formats "*certified by me were not part of submission to any of the statutory authority*" cannot be accepted.

18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)⁴ in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that "*Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections*". Further, as evidenced by the instances listed in the Table above, the EP's documentation and reports he issued show that he performed the work as a Branch Statutory Auditor. However, on receipt of the SCN from NFRA which, inter alia, charged him with several violations of the SAs, the EP took a divergent stand and contented that the audit was not a statutory branch audit. In FY 2015-16, the AGM specifically resolved to appoint separate Branch Statutory auditors and the Company's Auditors while in 2017-18 there was only one statutory auditor, i.e., CAS, for the Company and all its branches. It is thus evident that the EP, without even being aware of the change in mandate, continued his purported role as statutory auditor and issued the reports accordingly, but on receipt of the SCN, the EP tried to cover up the lapses by taking the plea that the audit was not a statutory audit. Had the SCN been not issued he would have continued his recurring audits as if he is the statutory branch auditor.
20. As per Section 143 (8) of the Act, the appointment of a Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz.

⁴ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment, the audit firm's acceptance vide letter dated 16.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" by the EP for the twelve Branches of DHFL, including the report required under CARO 2016, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

21. The EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁵. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 13 and 14 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA Harish Sharma was not as per the provisions of the Law, we now discuss the non-compliance by CA Harish Sharma with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the

⁵ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

23. The EP was charged with non-compliance with SA 210⁶ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁷ as well. SA 210⁸ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
24. The EP in his three-page reply submitted the contentions as noted in para 15 above and has not submitted any specific reply to this charge levied on the EP. Thus, we examined in detail the audit file submitted by the EP and conclude the following.
25. The appointment letter makes it clear that *“Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”* Thus, the subject matter assignment was not limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.
26. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter⁹ (as prescribed by SA 210) was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.

⁶ SA 210, Agreeing the Terms of Audit Engagements.

⁷ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁸ Para 9, 10 and 11 of SA 210

⁹ The sample engagement letter provided in appendix I of SA 210 may be referred.

27. Between 2015-16 and 2016-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. This calls for the application of para 13 of SA 210 as well.
28. We conclude that EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above stand proved.

Non-Compliance with SA 230 "Audit Documentation"

29. The EP was charged with non-compliance with SA 230¹⁰. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
30. The EP submitted that "*a deeper study of our documentations will prove that commensurate to our required job, we have done full justice*". In the absence of any explanations and specific replies to the charges, we examined in detail the audit file submitted by the EP and conclude as follows.
31. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and as required by Para 8 of SA 230 documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.
32. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit

¹⁰ SA 230 – Audit Documentation

Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.

33. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.
34. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
35. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
36. The Audit File does not even contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹¹)
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹²)
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Trial balance for the previous year (refer to SA 510)
 - f. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - g. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - h. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - i. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).
37. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not

¹¹ SA 315, Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and its Environment

¹² Sa 320, Materiality in Planning and Performing an Audit

follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 29 regarding non-compliance with SA 230 stand established.

38. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue which strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states “*Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review...the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed*”.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

39. The EP was charged with non-compliance with SA 700. As per SA 700¹³ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since, the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁴.
40. The EP submitted that “*we were not the branch auditors and we have submitted the reports as per the formats suggested by the Company*”. In the absence of any explanations and specific replies to the charges, we examined in detail the audit file submitted by the EP and conclude as follows.
41. The EP has not determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed, and the conclusions reached thereon are also

¹³ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁴ Para 11 of SA 700

not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. However, the EP issued an unmodified opinion without complying with the requirements of SA 700.

42. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls and for reasons stated in para 31 to 37 above, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 39 above stand proved.

Non-Compliance with other SAs

43. The EP was charged with non-compliance with the following provisions of SAs:
- Para 6, 7, 8, 9 & 10 of SA 300¹⁵ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
 - Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁶ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
 - Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
 - Para 5, 6, 8, 14 & 15 of SA 450¹⁷ absent the evaluation of identified misstatements and uncorrected misstatements.
 - Non-compliance with para 5, 6 and 8 of SA 510 relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
 - Para 6 of SA 520¹⁸ relating to design and performance of analytical procedures.
 - Para 4, 6, 7, 8 & 9 of SA 530¹⁹ relating to the determination of sample design, sample size and required audit procedures.
 - Para 8, 9 & 10 of SA 580²⁰ regarding obtaining written representations from the management about their responsibilities.
44. The EP submitted that *“Most of the SAs referred in the show cause notice are not applicable for the said assignment”*.
45. As detailed in para 22 above, the EP was required to ensure compliance with the SAs. In the absence of any explanations and specific replies to the charges, in the absence of any evidence in the audit file, and for the reasons stated in Para 31 to 36 above regarding audit

¹⁵ SA 300, planning an Audit of Financial Statements.

¹⁶ SA 330, The Auditor's Responses to Assessed Risks

¹⁷ SA 450, Evaluation of Misstatements Identified during the Audit

¹⁸ SA 520, Analytical Procedures

¹⁹ SA 530, Audit Sampling

²⁰ SA 580, Written Representations

documentation, we conclude that the EP failed to comply with the above requirements of the SAs.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

46. Given the above-mentioned actions and omissions, it is established that CA Harish Sharma did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Harish Sharma as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Harish Sharma committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

47. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
48. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
49. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²¹ in the larger public interest.
50. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.
51. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit and abdication of responsibility on the part of CA Harish Sharma right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Harish Sharma has not adhered to the Standards on Auditing and the provisions of the law.
52. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
53. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconducts have been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, proportionality, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:

- i. Imposition of a monetary penalty of **₹ 100,000 (One Lakh)** upon CA Harish Sharma;

²¹ As defined in Rule 3 of NFRA Rules 2018

- ii. CA Harish Sharma is debarred for **one year** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

54. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

To,
CA Harish Sharma,
ICAI Membership No - 0403129,
Partner, M/s R. Shah & Co., Chartered Accountants,
(ICAI Firm Registration No: 502010C)
34 SumanVilla, Ajmer Road,
Sodala, Jaipur-302006
Email: cabagra123@gmail.com

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 47/2023

Date: 29.09.2023

ORDER

In the matter of CA Dhiraj Parasmal Jain, ICAI Membership No. 144738 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 20.10.2022, issued to CA Dhiraj Parasmal Jain, Partner at Atul Dhiraj & Co., Chartered Accountants (Firm Registration No: 133405W, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 144738) and was the Engagement Partner (EP) for the statutory audit of four branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Dhiraj Parasmal Jain for his role as the Engagement Partner (EP) in the audit of four branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. NFRA investigated these EPs responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Dhiraj Parasmal Jain, who was the EP for the audit of four of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Dhiraj Parasmal Jain accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Dhiraj Parasmal Jain not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required the EP to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment, the Branch Audit performed by CA Dhiraj Parasmal Jain was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Dhiraj Parasmal Jain, had not complied with the requirements laid down in the SAs, had not maintained proper audit documentation and displayed a flawed understanding of standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Dhiraj Parasmal Jain a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for six months from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance with the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/ directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Dhiraj Parasmal Jain, to whom this Order relates and who acted as the branch auditor for the four branches of DHFL at Dahanu, Naigaon, Palghar and Wada.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.

¹ As defined in para 6 of SA 230

9. As part of NFRA's investigations, CA Dhiraj Parasmal Jain was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The EP submitted the Audit File along with other information in respect of the four branches for FY 2017-18 on 25.08.2022.
10. The investigation by NFRA revealed prima facie, that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Dhiraj Parasmal Jain on 20.10.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of four branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 18.11.2022 but was granted an extension of time following a request vide e-mail dated 17.11.2022. The EP submitted the reply on 02.12.2022. Along with his reply to the SCN, the EP submitted "*Further documents in Audit File*" via two emails wherein some additional documents related to the four DHFL branches were submitted.
12. The EP availed of the opportunity for a personal hearing and attended the personal hearing on 20.02.2023 before the Executive Body of NFRA. During the personal hearing, the EP stated that he did not verify the compliances related to his appointment as Statutory Branch Auditor since he believed that DHFL being a large and listed entity would ensure all the compliances. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as "Statutory Auditor for the branches" of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as "Statutory Auditor for the branches" of the Company was done in compliance with Section 139 of the Act.

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

The EP not only accepted an invalid appointment letter issued by an “Authorised Signatory” without the approval of the Board and shareholders but also issued the audit report without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 “Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing”.

16. In response, the EP submitted that *“I submit that non-availability of resolution of members for appointment as Branch Auditors has gone unnoticed till the receipt of SCN. In an Organisation with the kind of magnitude of operations and the existence of professionals at the helm of affairs of the respective functions, it did not occur that such a basic condition is not complied with by the Organisation while intimating the appointment requiring raising query at our firm’s end about the said resolution... As a matter of fact our firm acted as Branch Auditor (notwithstanding the irregularity in appointment) and all concerned accepted the same... Having stated that the said non-compliance has gone unnoticed and was an innocent and accidental omission, the further allegations on account of the same are only consequential in nature not requiring any separate explanation.”*
17. EP’s admission that he did not verify the compliances related to the appointment proves the charges in Para 14 & 15 above. On examination of the replies of the EP, we find that the appointment letter acknowledged by the EP and the “Independent Branch Auditors’ Report” issued by him clearly described the engagement as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
18. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct)³ a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013) in respect of such appointment have been duly complied with.
19. The ICAI Code of Ethics, 2009 makes it clear that *“Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word “ascertain” means “to find out for certain”. This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections”.*
20. As per Section 143 (8) of the Act, the appointment of Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, EP's acceptance vide letter dated 28.08.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the four Branches of DHFL describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.

21. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is thus professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 13 and 14 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

22. Notwithstanding our finding in Part I above that the appointment of CA Dhiraj Parasmal Jain was not as per the provisions of the Law, we now discuss the non-compliance by CA Dhiraj Parasmal Jain with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued the "Independent Branch Auditors' Report" stating therein that *"we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance"*. Since these branch audit reports are clearly referred to by the Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk,

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf>) - Last accessed 29.09.2023)

nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 “Agreeing the Terms of Audit Engagements”

23. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
24. The EP in his reply submitted that *“I submit that the letter no. DHFL/Accounts/2017-18/03 dated 23.08.2017 issued by the Company to us itself stated the guidelines for Statutory Audit of Branches, brief indicative scope of work as per the Companies Act with specific requirements of work and various annexures required were annexed thereto. The said guidelines specified the areas of scope and reporting formats. The draft reports requirement as shared by DHFL clearly indicated in Annexure VI separately the Management’s Responsibility and the Auditor’s Responsibility for the Financial Statements. All the necessary requirements of the engagement letter to be issued by the auditor are covered in the letter”*.
25. The copy of the appointment letter acknowledged by the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of the objective of the audit, a proper description of the responsibilities of the auditor and the management and the applicable financial reporting framework⁸. Such an audit engagement letter (as prescribed by SA 210) was not found to have been issued by EP. The EP’s response above shows a flawed understanding of the scope of SA 210.
26. The appointment letter makes it clear that *“Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...”* Thus, the subject matter assignment was not limited to “Statutory Branch Audit”, but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter, as mandated by SA 210, before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL.
27. We conclude that EP’s negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not appropriate to the situation. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 23 above stand proved.

Non-Compliance with SA 230 “Audit Documentation”

28. The EP was charged with non-compliance with SA 230⁹. EP’s audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor’s report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
29. The EP in his reply stated that *“on reading the SCN it is realized that many other documents which are relevant and/or connected to the Audit have not come on record with NFRA, as the said documents were maintained in other file/s as working papers. I am, therefore, submitting such remaining documents with this reply with Index titled as “Further documents in Audit File” with a request to take the same on record for consideration in the in the interest of justice”*. The EP referred to these *“Further Documents in Audit File”* (inter alia containing purported working papers from previous year’s audit files) and submitted point-wise reply to the charges in the SCN.
30. We have examined the EP’s contentions vis-à-vis the provisions in SA 230 and find that the replies are not acceptable for the following reasons:
 - a. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the Auditor’s basis for a conclusion about the achievement of the overall objectives of the Audit; and evidence that a planned performance of the Audit was done in accordance with SAs and relevant legal and regulatory requirements. SA 230 lists “enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements” among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the “Timely Preparation of Audit Documentation” i.e. in a manner contemporaneous with the events that are being sought to be documented.
 - b. Apart from SA 230, there are other SAs also that require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 is explicit: “Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation”. Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor’s report.
 - c. Para 8 of SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit,

⁹ SA 230 – Audit Documentation

the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.

- d. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
 - e. SA 230, para 14, requires the assembly of the audit documentation in an audit file. SQC 1¹⁰ prescribes a maximum time of 60 days for completion of assembly, beyond which no modification other than administrative changes is permitted in the Audit File.
31. Keeping the above in mind, we have examined the additional documents submitted by the EP in the interest of fairness and have taken the evidence into consideration wherever it supports or corroborates the original audit documentation submitted to NFRA. However, additional documentation submitted to NFRA was deficient in terms of the nature, timing and extent of the audit procedures performed, who prepared and reviewed the audit working papers (WPs) and the timing of the audit procedures.
32. The EP was charged that the Audit File does not contain even the basic documentation such as:
- a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹¹): The EP submitted that *“The branch operations were restricted to general administration work which was well known to us and a summary of the same is available with us in the form of written commentary on the basis of discussion with management and information provided by them”* and provided a document purportedly *“summary note”* from his previous year Audit File. Without prejudice to the requirements of SA 230 regarding the timely completion of audit documentation, as stated in para 29 above, we examined the additional working paper now submitted by the EP. The working papers cannot be accepted since it does not meet the requirements of SA 230. There is no indication of who prepared these working papers, who reviewed them and the time of preparation. The working papers carry no evidence of the nature of audit procedures performed for obtaining an understanding of the (i) Relevant industry, regulatory, and other external factors including the applicable financial reporting framework, (ii) The entity’s selection and application of accounting policies, (iii) The entity’s objectives and strategies, and those related business risks that may result in risks of material misstatement, (iv) The measurement and review of the entity’s financial performance, (v) Internal controls, etc. as required by SA 315¹².
 - b. Audit plan made after understanding the branch operations in accordance with SA 300: In response, EP has referred to *“H1 Audit Programme”* and *“H2 Audit Programme”* submitted as additional documents along with the reply to SCN. However, on examination, we found that they are deficient in terms of (i) an overall audit strategy that sets the scope, timing and direction of the audit, and that guides the development of the audit plan in line with the requirement of para 7 of SA 300, (ii) nature, timing and extent of planned risk assessment procedures, (iii) nature, timing and extent of planned further audit procedures at the assertion level, (iv) Other planned audit procedures, (v) nature, timing and extent of direction and

¹⁰ Standard on Quality Control (SQC) 1, Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.

¹¹ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment

¹² Para 11 to Para 26 and Para 32 of SA 315

supervision of engagement team members and the review of their work, etc as required by SA 300¹³.

- c. Determination of materiality levels (refer to SA 320¹⁴): In reply, EP submitted that *"We have applied our professional judgement in respect of each item of the trial balance with respect to materiality as and when they arose"*. The reply cannot be accepted in the absence of any working paper evidencing determination and application of materiality, performance materiality and documentation thereof as required by SA 320¹⁵.
 - d. Understanding of the IT system controls (refer to SA 315): The EP replied that *"As per discussion with management and based on inputs received from them, IT system controls are maintained and managed at Head Office Level and not Branch Level"*. In the absence of any working paper evidencing such discussion and understanding, EP's contention cannot be accepted.
 - e. Summary of the accounting policies, observations from previous audits, inspection reports, and internal audit reports (refer to SA 315): EP responded that *"Accounting Policies are dealt at Head Office Level. As far as the observation from previous audits, the reports themselves are referred to by us. There have been no inspection and internal audit reports for the concerned branches audited by us"*. EP's contention cannot be accepted in the absence of documentation of such fact in his Audit File.
 - f. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures): EP has replied that *"We have performed ...a thorough check of the documents available in the respective loan files such as Sanction Terms, Special Sanction Terms, KYC Documents of the borrowers, Income Documents of the borrowers, Legal Search Documents, Valuation Reports of legal counsel..."*. However, there is no working paper in the Audit File evidencing performance of such procedures by the EP. Only evidence is (extracts of) a few *"lease agreements"* submitted as additional documents.
 - g. KYC verification, anti-money laundering verification, security verification (substantive audit procedures): In response, EP has stated that *"KYC verification of borrowers was done by checking the copies of documents provided by the borrowers... Security verification was done by checking the original property papers pledged by borrowers as collateral... Having regard to...nature of business and ticket size of loans we honestly believed that there was no room for money laundering...There was no trigger of any suspicion of money laundering in the context of small branches audited by us."* However, there is no working paper in the Audit File evidencing the performance of any procedures by the EP.
33. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 28 regarding non-compliance with SA 230 stand established.
34. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue that strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of

¹³ Para 6, 7, 8, 9 and 10 of SA 300

¹⁴ SA 320, Materiality in Planning and Performing an Audit

¹⁵ Para 10, 11 & 14 of SA 320

sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

35. The EP was charged with non-compliance with SA 700. As per SA 700¹⁶ in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. In the Annexures to the audit report, the EP noted that for some of the loan files the required documents were not obtained. However, the EP did not document how this deficiency in documentation was evaluated in forming an unmodified opinion. Since, the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹⁷.
36. In the “Certificate” of Loan Files Checked, EP noted that *“Loan files have been verified by us on the basis of availability of the Loan files and dockets with the Regional Processing Unit. We have been informed that the same are maintained by a separate agency and therefore we could verify only those loan files which were available at the storage facility of the Regional Processing Unit”*. There is no explanation about the impact of the records not made available for verification. Thus, the EP did not obtain sufficient and appropriate audit evidence as required by SA 700.
37. The EP submitted that *“we selected 15 loan file numbers on random basis and asked for the same from the Regional Processing Unit. However, only 13 files were made available as remaining two were with third party storage agency. We therefore gave other 2 loan file numbers again on random basis to the Regional Processing Unit which were made available. In the circumstances, it cannot be said that we did not obtain sufficient and appropriate audit evidence as required by SA 700”*.
38. The EP’s contention, that he changed the samples when an anomaly was noticed, goes against the basic principles of SA 530, Audit Sampling. When the random samples selected by the EP showed some anomalies, the EP was required to investigate the reasons and evaluate the possible effect on the purpose of the audit procedures¹⁸. There is no such examination documentation in the Audit File. The removal of the samples which were not made available and the inclusion of other files instead shows bias and makes the sample not representative of the population¹⁹. Further, the EP has

¹⁶ Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹⁷ Para 11 of SA 700

¹⁸ Para 12 of SA 530, Audit Sampling

¹⁹ Para 8 and A12 of SA 530, Audit Sampling

not even determined any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. However, the EP issued an unmodified opinion without complying with the requirements of SA 700.

39. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls and based on the contradictory evidence mentioned in para 35 above, we observe that the unmodified opinion issued by EP is baseless. Hence, the charges in para 35 regarding non-compliance with SA 700 stand proved.
40. We also note that such lapses relating to the verification of documents during the audit are viewed seriously by audit regulators. A Chartered Accountant, in the audit of a Bank branch, did not verify the securities for debts and was held guilty of professional misconduct of absence of due diligence and gross negligence. (A.N. Kapur -vs.- R.N. Budhiraja; Page- 374 of Vol. IX (1) of the Disciplinary Cases- ICAI Council's decision dated 11th and 12th April 2008).

Non-Compliance with other SAs

41. The EP was charged with non-compliance with the following provisions of SAs:
 - a. Para 6, 7, 8, 9 & 10 of SA 300²⁰ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300. The EP submitted that "*As per further documents in audit file submitted... we have established overall audit strategy and developed an audit plan in accordance with SA 300*". In the absence of an Audit Plan and an Audit Strategy made in compliance with SA 300 (as detailed in Para 30 b above), the reply of the EP is not acceptable.
 - b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330²¹ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc. The EP submitted that "*During the course of our audit, no material misstatement at the financial statement level was observed and therefore no such documents were prepared regarding the same*". In terms of the specific documentation requirement in SA 315²², EP's contention cannot be accepted.
 - c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof. EP submitted that "*...there were no situations visualized requiring pre-determination of materiality levels in writing. However, in the course of audit, the concept of materiality was always borne in mind in respect of each transaction*". Para 5 of SA 320 makes it clear that "the concept of materiality is applied by the auditor both in planning and performing the audit and in evaluating the effect of identified misstatements on the audit and of uncorrected misstatements, if any, on the financial statements and in forming the opinion in the auditor's report". Mandatory documentation requirements of SA 320 include the factors considered in the determination of materiality and materiality for the financial statements as a whole, the materiality level or levels for particular classes of transactions, account balances

²⁰ SA 300, planning an Audit of Financial Statements.

²¹ SA 330, The Auditor's Responses to Assessed Risks

²² Para 32 of SA 315

or disclosures, performance materiality and any revision of the materiality amounts as the audit progress. The audit documentation in the present case did not contain any of these details and hence the replies of the EP are not acceptable.

- d. Para 5, 6, 8, 14 & 15 of SA 450 absent the evaluation of identified misstatements and uncorrected misstatements. The EP submitted that *“we did not find misstatements”*. In the absence of any (a) documented conclusions on the observations noted by the EP in respect of several loan files (as detailed in para 35 to 38 above) and of (b) working papers fulfilling mandatory documentation requirements of SA 450, EP’s claims cannot be accepted.
 - e. Para 6 & 9 of SA 500²³ in not designing and performing audit procedures to obtain sufficient appropriate audit evidence and not evaluate the reliability of information produced by the company. The EP submitted that *“Considering the scope and extent of audit, it was not considered necessary to design in writing in the form of a document the relevant audit procedure. However, the audit procedure contemplated by Para 6 and 9 of SA 500 have been followed”*. In view of the unresolved observations noted by the EP in respect of several loan files (as detailed in para 35 to 38 above) and the absence of any documented conclusions thereon, the EP’s response cannot be accepted.
 - f. Para 6 of SA 520²⁴ relating to the design and performance of analytical procedures. The EP submitted that *“the analytical procedures as contemplated by para 6 of SA 520 were duly complied with. Considering the scope and extent of audit, it was not reduced in writing as a document”*. The replies are not accepted since there is no evidence in the Audit File that EP performed any such procedures.
 - g. Para 4, 6, 7, 8 & 9 of SA 530²⁵ relating to the determination of sample design, sample size and required audit procedures. The EP stated *“As per further documents in audit file submitted... sample design and sample size and required audit procedures are sufficient”*. On examination of further documents, we find that there is no evidence that any of the sampling and the related procedures as detailed in SA 530 have been complied with by the EP, while the audit opinion is based on sample testing. In the absence of any evidence to show compliance with the determination of sample design, sample size and audit procedures performed on it and the observations noted in para 38 above regarding sample selection, the contentions of the EP are not accepted.
 - h. Para 8, 9 & 10 of SA 580²⁶ regarding obtaining written representations from the management about their responsibilities. EP submitted that *“Since we did not find any material irregularities in the course of audit, the management representation letter was not insisted”*. In view of the mandatory requirements of SA 580 in the paras mentioned, the replies of the EP are not acceptable.
42. Thus, for the reasons stated in Para 41 above, we conclude that the EP failed to comply with the above requirements of the SAs.

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

43. Given the above-mentioned actions and omissions, it is established that CA Dhiraj Parasmal Jain did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence

²³ SA 500, Audit Evidence

²⁴ SA 520, Analytical Procedures

²⁵ SA 530, Audit Sampling

²⁶ SA 580, Written Representations

while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Dhiraj Parasmal Jain as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of the Part I of Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Dhiraj Parasmal Jain committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

44. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
45. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
46. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²⁷ in the larger public interest.
47. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

²⁷ As defined in Rule 3 of NFRA Rules 2018

48. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Dhiraj Parasmal Jain has not adhered to the Standards on Auditing or provisions of the law.
49. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
50. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that professional misconduct has been proved and the EP has admitted the fact regarding the invalid appointment and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
- Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Dhiraj Parasmal Jain;
 - CA Dhiraj Parasmal Jain is debarred for **six months** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
51. This order will become effective after 30 days from the date of issue of this order.

Sd/-
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-
(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary

सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Dhiraj Parasmal Jain,
ICAI Membership No - 144738,
Partner, Atul Dhiraj & Co., Chartered Accountants,
Office No. 1 &2, Near Colgate Ground,
Khernagar, Bandra (East),
Mumbai-400051.
Email: cadhirajjain@yahoo.com
atul.dhiraj@yahoo.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) The Compliance Officer, DHFL
- (v) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.

भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority

7th Floor, Hindustan Times House,
Kasturba Gandhi Marg, New Delhi

Order No. 31/2023

Date: 29.09.2023

ORDER

In the matter of CA Aabhas Tiwari, ICAI Membership No. 403045 under Section 132(4) of the Companies Act, 2013 read with Rule 11(6) of National Financial Reporting Authority Rules, 2018.

This Order disposes of the Show Cause Notice dated 07.12.2022, issued to CA Aabhas Tiwari, partner of M/s Mangesh V Kekre & Associates, (ICAI Firm Registration No: 012530C), Indore, who is a Member of the Institute of Chartered Accountants of India (ICAI Membership No. 403045) and was the Engagement Partner (EP) for the statutory audit of six branches of Dewan Housing Finance Corporation Limited (DHFL), a company listed on both National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) for the Financial Year 2017-18. This Order is divided into the following sections:

- A. Executive Summary
- B. Introduction and Background for the Order
- C. Major Lapses
- D. Articles of Charges of Professional Misconduct
- E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

1. This Order is being passed as a result of an investigation by the National Financial Reporting Authority (NFRA) into the professional conduct of CA Aabhas Tiwari for his role as the Engagement Partner (EP) in the audit of six branches of DHFL. DHFL, a housing finance company listed on both NSE and BSE) and operating through a network of branches, was reportedly involved in financial fraud. NFRA took suo motu notice of the matter and pursuant of an Audit Quality Review (AQR) of the statutory audit of DHFL for FY 2017-18, conducted by Chaturvedi & Shah (CAS), a Mumbai-based Chartered Accountant Firm. During the review, NFRA also noticed that 33 Engagement Partners (EP) or branch auditors had signed the “Independent Branch Auditors’ Report” for nearly 250 branches. The Statutory Auditor of the Company viz CAS had referred to these so-called Branch Audits. NFRA investigated these Eps responsible for the branch audits under section 132 (4) of the Companies Act, 2013 (the Act), including CA Aabhas Tiwari, who was the EP for the audit of six of the 250 branches of DHFL.
2. NFRA’s investigations revealed that the appointment of none of the 33 branch auditors was approved at the Annual General Meeting (AGM) of DHFL, as required by the Act. CA Aabhas Tiwari accepted the appointment, portrayed himself as “Branch Statutory Auditor” in all communications with the Company and CAS, and issued an “Independent Branch Auditor’s Report”. By doing so CA Aabhas Tiwari not only accepted a legally invalid appointment but also violated the provisions of the Chartered Accountants Act, 1949 (CAs Act), which required him to ensure a valid appointment as per the Act.

3. Notwithstanding his defective appointment, the Branch Audit performed by CA Aabhas Tiwari was investigated by NFRA from the standpoint of compliance with the applicable Standards on Auditing (SAs). It was found that in the performance of the branch audit the EP, CA Aabhas Tiwari, had not complied with the requirements laid down in the SAs and had not maintained proper audit documentation as per the standards that established the EP's professional misconduct in terms of Section 132 (4) of the Act.
4. Based on the nature of professional misconduct and other factors, this Order imposes on CA Aabhas Tiwari a monetary penalty of ₹1,00,000/- (One Lakh) and debarment for six months from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

5. NFRA is a statutory authority set up under Section 132 of the Act to monitor the implementation and enforce compliance of the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA has the powers of a civil court and is empowered under Section 132 (4) of the Act to investigate the prescribed classes of companies and impose penalties for professional or other misconduct of the individual members or firms of chartered accountants.
6. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of companies under Section 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement Team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing (SA), including the Standards on Quality Control and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed under Section 132 (4) (c) of the Act.
7. Following media reports on the alleged siphoning of public money of around ₹31000 crore and the Enforcement Directorate's reported action in April 2020 on an alleged banking fraud of about ₹3700 crore by the promoter/directors of DHFL, NFRA suo-motu initiated an Audit Quality Review (AQR) to probe into the role of the Statutory Auditors of DHFL for the FY 2017-18, the year in which the alleged fraud was primarily stated to have occurred. While examining the Audit Files¹ of the statutory audit carried out by CAS, a Mumbai-based CA firm, certain prima facie violations were observed relating to the appointment of Branch Auditors and the conduct of branch audits of DHFL, which were referred to by the statutory auditor CAS. Accordingly, NFRA suo motu called for the audit files from EP who had signed the "Independent Branch Auditors' Report" for nearly 250 branches, under Section 132(4) of the Act, including CA Aabhas Tiwari, to whom this Order relates and who acted as the branch auditor for the six branches of DHFL at Atgaraha Rajarhat Kolkata, UBI Kolkata Synd, Zone East Branch Kolkata, Kolkata, RPU Kolkata and Kolkata Theatre Road.
8. DHFL, a housing finance company listed on both NSE and BSE, was required to prepare its Financial Statements for the Financial Year (FY) 2017-18 in accordance with Schedule III and other applicable provisions of the Act and Accounting Standards (AS) notified under the Companies (Accounting Standards) Rules, 2006.

¹ As defined in para 6 of SA 230

9. As part of NFRA's investigations, CA Aabhas Tiwari was asked to provide the Audit File vide NFRA letter dated 10.08.2022, giving 15 days' time. The EP submitted the Audit File along with other information in respect of the six branches for FY 2017-18 on 25.08.2022.
10. The investigation by NFRA revealed prima facie that the branch auditors had violated both the Companies Act, 2013 and the Chartered Accountants Act, 1949 by accepting the appointment that lacked a valid approval and had also violated the SAs while carrying out the branch audit. On being satisfied that prima facie sufficient cause existed to take action under sub-section (4) of Section 132 of the Act, a Show Cause Notice (SCN hereafter) was issued to CA Aabhas Tiwari on 07.12.2022, asking the EP to show cause why action should not be taken for professional misconduct in respect of the performance as the Statutory Auditor of six branches of DHFL for the FY 2017-18. The EP was charged with professional misconduct on account of:
 - a. Failure to exercise due diligence and ascertain from the Company whether the requirements of Sections 139 of the Act in respect of such appointment have been duly complied with,
 - b. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties,
 - c. Failure to obtain sufficient information which is necessary for the expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion, and
 - d. Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances.
11. The EP was asked to submit his reply to SCN by 06.01.2023 but was granted an extension of time following a request vide e-mail dated 05.01.2023. The EP submitted the reply on 06.02.2023.
12. The EP availed of the opportunity for a personal hearing and attended the personal hearing on 14.03.2023 before the Executive Body of NFRA. During the personal hearing, the EP reiterated his written replies to the SCN. The various charges levied in the SCN and the response of the EP to the charges are discussed in Part C of this Order.

C. MAJOR LAPSES BY THE EP

13. The major lapses for which the EP was issued the SCN primarily relate to (i) accepting the audit engagement without a valid authority and thus violating the provisions of the Act and (ii) violations of the Standard of Auditing in conducting the audit.

I. Acceptance of audit engagement without valid authorization and without complying with ethical requirements; and issuing an audit report in violation of the Act

14. The EP was charged with acceptance of an audit engagement without complying with ethical requirements and issuing the audit report without a valid appointment as per the Act, as the appointment of the Audit Firm as "Statutory Auditor for the branches" of DHFL for FY 2017-18 was not done by the competent authority i.e., the shareholders.
15. On examination of the Audit File, we observe that despite a specific requirement² in the Chartered Accountants Act, 1949 (CAs Act) to do so, the EP has not verified if the appointment as "Statutory Auditor for the branches" of the Company was done in compliance with Section 139 of the Act. The EP not only accepted an invalid appointment letter issued by an "Authorised Signatory" without any evidence of the approval of the Board and shareholders but also issued the audit report

² Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct).

without ascertaining the actual objective and scope of the audit. The EP also violated the ethical requirements, as laid down in the Code of Ethics, 2009, which require the EP to ensure professional competence, due care, integrity and professional behaviour in discharging the duties as well as compliance with the Act before accepting the engagement. In the process, the EP also did not comply with Paras 14, 15 and 16 of SA 200 "Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing".

16. In response, the EP submitted that *"the communication of the appointment was made by the senior designated authorities of the Company There was no reason for the engagement partner to doubt the legality of the appointment made by DHFL at that point. ...I must admit that I am surprised to note that the necessary resolutions were not passed by the company in that year and despite this the communication of appointment was made by their senior officials under a CC to the then CAS ...I further understand that the act of appointing & communicating the appointment as the statutory auditors of the DHFL for FY 2017 - 2018 without the approval of the shareholders/ members of the Company was clear violation of the act done by the officers/authorities of the company. This act is directly hit by the Doctrine of Indoor Management, which offers immunity to the people like us being an equal "victim" of the situation and an "Outsider" against the actions/inactions done by the Company. So far as the compliance of SA 200, I state that the I have acted in good faith & performed all my duties with complete due diligence and has also complied with the various provisions of the Companies Act and Rule framed thereunder. [except those resulted due to misinterpretation of the provisions of Section 22 of CA Act 1949_Part 1_ Clause (9)]"*.
17. The EP also submitted that a mistake was committed regarding compliance with the Chartered Accountants Act, 1949 wherein he was required to verify compliance with the Companies Act, 2013, but he did not do it because such non-compliance was not expected from the company and there was a lack of awareness regarding the provisions.
18. The EP's admission that he did not verify the compliance with the Act regarding his appointment proves the charges in para 14 & 15 above. On examination of the replies of the EP, the appointment letter acknowledged by the EP and the "Independent Branch Auditors' Report" issued by him clearly described the engagement as a Branch Statutory Audit. However, the EP did not comply with the requirements of the CAs Act and SA 200 in this regard, as explained in subsequent paragraphs.
19. Under Section 22 of the Chartered Accountants Act, 1949 read with Clause (9) of Part I of the First Schedule to the said Act (the meaning of which is conceived in Section 132(4) as professional misconduct) a chartered accountant in practice shall be deemed to be guilty of professional misconduct if an appointment as auditor of a company is accepted without first ascertaining from it whether the requirements of Section 225 of the Companies Act, 1956 (equivalent Sections being Section 139 & 140 of Companies Act, 2013)³ in respect of such appointment have been duly complied with.
20. The ICAI Code of Ethics, 2009 makes it clear that *"Under Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the incoming auditor has to ascertain whether the Company has complied with the provisions of the above sections. The word "ascertain" means "to find out for certain". This would mean that the incoming auditor should find out for certain as to whether the Company has complied with the provisions of Sections 224, 224A and 225 of the*

³ As per Ministry of Corporate Affairs Circular No. 7/2014, dated 01-04-2014, the equivalent sections of the Companies Act 2013 for the above sections of the Companies Act, 1956 are sections 139 and 140.

Companies Act. In this respect, it would not be sufficient for the incoming auditor to accept a certificate from the management of the Company that the provisions of the above sections have been complied with. It is necessary for the incoming auditor to verify the relevant records of the Company and ascertain as to whether the Company has, in fact, complied with the provisions of the above sections".

21. As per Section 143 (8) of the Act, the appointment of the Statutory Auditor is required to be made under Section 139 of the Act by the members at an annual general meeting. It is observed that the Resolution for Appointment of Auditor for the financial year 2017-18 passed at the 33rd Annual General Meeting of DHFL, held on 21-07-2017, read with the declaration of Voting Results of the resolution to ratify such appointment only refers to the appointment of CAS (Firm Registration No: 101720W), as the Statutory Auditors of the Company to audit the accounts of all the Company's offices including those of its zonal/ regional and branch offices for the financial year 2017-18. No other Branch Statutory Auditors were appointed or ratified by the Company in the said meeting. Only CAS was appointed as the Statutory Auditor for the company as well as all its branches. Thus, the shareholders of the company approved only one Statutory Auditor (viz. Chaturvedi & Shah) for the Company and its branches. Therefore, in the absence of a valid appointment order, EP's acceptance vide letter dated 13.09.2017 of the appointment as Statutory Auditor of the branches and issuance of the "Independent Branch Auditor's Report" for the six Branches of DHFL, describing the engagement as Branch Statutory Audit confirms the absence of professional skepticism and lack of due diligence on his part.
22. The '*doctrine of indoor management*' is not applicable in this case in view of the specific requirement of the CAs Act as stated above, which casts a positive obligation on the part of the EP to verify compliance with the Act regarding his appointment.
23. Thus, the EP was required to exercise due diligence under SA 200 and adhere to the specific provisions of the Chartered Accountants Act, 1949 under Section 22 read with Clause 9 of Part I of the First Schedule. The non-compliance is therefore professional misconduct in terms of section 132(4)(c) of the Companies Act 2013. Branch Statutory Audit is rendered invalid ab-initio due to non-ratification by the shareholders of the Company which was the requirement of the law. This is compounded by the fact that CAS, in their Statutory Audit Report, has referred to the branch audit reports⁴. The said lack of due diligence in accepting an invalid appointment is also professional misconduct as per Clause 7 of Part I of the Second Schedule to the CAs Act, the meaning of which is conceived in Section 132(4)(c) of the Act. Therefore, we find that the charges in paras 14 and 15 above stand proved.

II. Failure to comply with Standards on Auditing (SAs)

24. Notwithstanding our finding in Part I above that the appointment of CA Aabhas Tiwari was not as per the provisions of the Law, we now discuss the non-compliance by CA Aabhas Tiwari with the SAs, since the audit work done by the EP has been referred to in the Audit Report of the Statutory Auditor, CAS. We observe from the various communications between the Company, the Branch Auditor and the Statutory Auditor that the whole Branch Audit engagement was performed by the Branch Auditors as per the scope of work provided by the company in consultation with the Statutory Auditors. The scope describes the engagement as a branch statutory audit under the Act. The Branch Auditors accepted the "Statutory Branch Audit" assigned by the Company and issued

⁴ Independent Auditor's Report of DHFL dated 30.04.2018 issued by CA Jignesh Mehta on behalf of CAS, available in the public domain (<https://www.bseindia.com/bseplus/AnnualReport/511072/5110720318.pdf> - Last accessed 29.09.2023)

the "Independent Branch Auditors' Report" stating therein that "we have taken into account provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance". Since these branch audit reports are clearly referred to by Company's Statutory Auditor (CAS) in its report to the members of the Company, we examine here the extent of compliance with the applicable SAs by the Branch Auditor notwithstanding the violation of ethical standards, the Chartered Accountants Act, 1949 and of the Companies Act, 2013 in accepting an invalid appointment as the Branch Auditor. The principles and procedures laid down in the SAs including professional skepticism, audit documentation, sufficiency and appropriateness of audit evidence, audit planning, materiality, engagement risk, nature, timing and extent of evidence-gathering procedures and reporting are all applicable in the branch audit as well, being an audit of historical financial information. Accordingly, the various violations of the SAs with which the EP was charged in the SCN are discussed in the following paragraphs.

Non-Compliance with SA 210 "Agreeing the Terms of Audit Engagements"

25. The EP was charged with non-compliance with SA 210⁵ and displaying an absence of professional skepticism and professional judgment in documenting the objective and scope of the audit, thereby violating SA 200⁶ as well. SA 210⁷ stipulates that the auditor shall agree to the terms of the audit engagement with management or Those Charged With Governance (TCWG) and that subject to paragraph 11 of the SA, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable forms of a written agreement and shall include (a) the objective and scope of the audit of the financial statements; (b) the responsibilities of the auditor; (c) the responsibilities of management; (d) identification of the applicable financial reporting framework for the preparation of the financial statements; and (e) reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.
26. Responding to the charges, the EP stated that the appointment letter and its acceptance by the EP contained all the required details as per SA 210. He further submitted that "*no additional written agreements were required as such because the scope & responsibilities were already prescribed in sufficient details under the law and regulations laid down in this regard. (Para 10 – SA 210)...my firm had accepted the terms of engagement and returned a signed copy to the company along with audit acceptance letter. Therefore, saying that terms of engagement were not obtained in writing would be grossly incorrect and unfair as well*".
27. The contention of EP is not acceptable. The appointment letter makes it clear that "*Besides statutory compliance, there are certain specific areas which have to be looked into and verified by the Statutory Auditors...*" Thus, the subject matter assignment was not limited to "Statutory Branch Audit", but additionally included verification of certain specific areas. In such a scenario, it was even more important for the auditor to send an audit engagement letter before the commencement of the audit to help avoid misunderstandings with respect to the audit giving reference to further agreements between the auditor and DHFL. The copy of the appointment letter acknowledged by

⁵ SA 210, Agreeing the Terms of Audit Engagements.

⁶ Para 15 and 16 of SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing.

⁷ Para 9, 10 and 11 of SA 210

the Audit Firm and the covering letter to it (that conveys the acceptance of the engagement) did not contain all the details required by Para 9, 10 and 11 of SA 210. It was deficient in terms of a proper description of the objective of the audit, the responsibilities of the auditor and the management and the applicable financial reporting framework. Such an audit engagement letter (as prescribed by SA 210)⁸ was not found to have been issued by EP. The EP's response above shows a flawed understanding of the scope of SA 210.

28. Para 10 of SA 210 which refers to para 11 of the SA states that if **law or regulation prescribes in sufficient detail the terms of the audit engagement referred to in paragraph 10**, the auditor need not record them in a written agreement, except for the fact that such law or regulation applies and that management acknowledges and understands its responsibilities. While the EP admits that the engagement was a branch statutory audit under section 143(8) of the Act, the EP ignored that para 11 of SA 210 can be invoked only if the terms of audit engagement such as the objective of the audit, the responsibilities of management, applicable financial reporting framework and expected form and contents of the audit report are prescribed by the Law, i.e., Section 143(8) of the Act, which is not the case.
29. Between 2015-16 and 16-17, there was a significant change in the circumstances relating to the branch audit. In 2015-16 the AGM decided to have a separate branch auditor and company's auditor, while in subsequent years there was only one auditor (CAS) to audit the Company and all its branches. The EP's negligence of the provisions of SA 210 has resulted in accepting an invalid appointment and issuing a report that is not legally valid. Thus, apart from the non-compliance with SA 210, this shows the absence of professional skepticism and professional judgment in understanding the objective and scope of the audit, thereby violating SA 200 also. Therefore, the charges in para 25 above regarding non-compliance with SA 210 and SA 200 stand proved.

Non-Compliance with SA 230 "Audit Documentation"

30. The EP was charged with non-compliance with SA 230⁹. EP's audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit as required by SA 230. In terms of SA 230, the objective of the auditor is to prepare documentation that provides a sufficient and appropriate record of the basis for the auditor's report; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. In the absence of the required documentation, the audit report EP issued to CAS, the Statutory Auditor, was without adequate basis and was in violation of SAs.
31. Responding to the charges, the EP denied all the charges and submitted that all the required procedures were duly done. He states that he was appointed as auditor for the same branches in the previous year 2016-17 as well. Hence, all the necessary basic documentation was referred to from the audit file of the last year.
32. The EP's contention that "*my team referred to the audit documentation from the previous year's audit file of other branches*" is not acceptable in view of the absence of any documentation in this regard. On a specific query in this regard during the oral hearing, the EP stated that there was no such reference to the previous year's files in the current year's audit file. There is no evidence in the Audit File to indicate that the EP had performed audit procedures and documented the conclusion, nature, timing and extent of the procedures performed, as detailed below.

⁸ The sample engagement letter provided in appendix I of SA 210 may be referred.

⁹ SA 230 – Audit Documentation

33. As explained by SA 230, the nature and purposes of audit documentation are to provide evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and evidence that the audit was planned and performed in accordance with SAs and applicable legal and regulatory requirements. SA 230 lists "enabling the conduct of quality control reviews and inspections in accordance with SQC 1; and enabling the conduct of external inspections in accordance with applicable legal, regulatory or other requirements" among the additional purposes that are served by the audit documentation. Para 7 of SA 230 emphasises the "Timely Preparation of Audit Documentation" i.e. in a manner contemporaneous with the events that are being sought to be documented.
34. Apart from SA 230, there are other SAs that also require the documentation of events, data, evidence, opinions and conclusions. SA 230 makes it very clear that reliance can be placed only on the audit file as evidence of what was done. Para A5 of SA 230 makes explicit that: "Oral explanations by the auditor, on their own, do not represent adequate support for the work auditor performed or conclusions the auditor reached, but may be used to explain or clarify information contained in the audit documentation". Para 14 of SA 230 mandates that the auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.
35. SA 230 requires that the auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements, (b) The results of the audit procedures performed, and the audit evidence obtained, and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.
36. SA 230 further requires that in documenting the nature, timing and extent of audit procedures performed, the auditor shall record (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.
37. The Audit File does not contain the basic documentation such as:
 - a. Understanding the branch operations, internal controls and responsibilities at various levels in the branch (refer to SA 315¹⁰).
 - b. Audit plan made after understanding the branch operations in accordance with SA 300
 - c. Determination of materiality levels (refer to SA 320¹¹). There is no documentation of materiality for the loans. Also, there is no documentation of the basis of materiality and how the materiality is used in the audit.
 - d. Understanding of the IT system controls (refer to SA 315)
 - e. Observations from previous audits, inspection reports, and internal audit reports (refer to SA 315)
 - f. Proof of verification of trial balance items, including assets (substantive audit procedures)
 - g. Procedures adopted to verify the loans sanctioned during the year (substantive audit procedures)
 - h. KYC verification, anti-money laundering verification, security verification (substantive audit procedures).

¹⁰ SA 315, Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment.

¹¹ SA 320, Materiality in Planning and Performing an Audit

38. In the absence of such proof documented in the audit file, the inevitable conclusion is that the requirements of the SAs are not met. The above facts are evidence that the EP did not follow the requirements of SA 230 and the audit documentation does not give evidence of the nature, timing and extent of audit procedures performed, results of those audit procedures and conclusions reached during the audit. Hence the charges in para 30 above regarding non-compliance with SA 230 stand established.
39. The lack of sufficient documentation in an audit is not merely a technical and procedural formality but is a serious issue which strikes at the very root of the audit and may defeat the very purpose of the audit itself. Lack of sufficient documentation has been viewed seriously by national and international regulators as well. For example, in the matter of Bharat Parikh & Associates Chartered Accountants, dated 19-03-2019, the US audit regulator PCAOB took a serious view on the lack of sufficient documentation and imposed penalties and sanctions for violations including insufficient documentation. The PCAOB Order states *“Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review....the documentation for each of those audits was insufficient to demonstrate the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, including in those areas of the audits involving significant risks. For the FY 2016 and 2017 Issuer A audits, the documentation also failed to demonstrate who performed the work and the date such work was completed. Additionally, in each of the Issuer A and Issuer B audits, the audit documentation was insufficient to demonstrate which aspects of the audit and which audit documentation Bharat Parikh reviewed”*.

Non-Compliance with SA 700, “Forming an Opinion and Reporting on Financial Statements”

40. The EP was charged with non-compliance with SA 700. As per SA 700¹² in order to form an opinion, the auditor shall conclude as to whether the auditor has obtained reasonable assurance whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Such a conclusion shall take into account, inter alia, whether sufficient appropriate audit evidence has been obtained and whether uncorrected misstatements are material, individually or in aggregate. Since the unmodified opinion expressed by the EP is not supported by evidence, the EP was charged with non-compliance with SA 700¹³.
41. The EP replied that *“my team had already verified 15 loan files of Top loans disbursed during the year plus 15 Random files plus top 20 outstanding loan accounts...We had very clearly mentioned the anomalies noticed during the course of audit in our consolidated audit report –Materiality levels used”*.
42. The EP did not determine any planning and performance materiality in terms of SA 320. The details of audit procedures performed and the conclusions reached thereon are also not available in the Audit File as already explained. As per the SAs, the EP is required to evaluate the effect of the misstatements, if any, and decide to appropriately modify his opinion. In the absence of documented procedures and conclusions, there is no evidence that the EP has obtained reasonable assurance that the financial information is free from material misstatements. Thus, the contention of the EP that “I

¹² Para 10 to 12 of SA 700, Forming an Opinion and Reporting on Financial Statements

¹³ Para 11 of SA 700

have obtained reasonable assurance and evidence to form an opinion on financial statement of branches.” is baseless and the EP issued an unmodified opinion without complying with the requirements of SA 700.

43. Therefore, in the absence of any documented conclusions, determination of materiality and assessment of the risk of material misstatements and the test of controls, we observe that the unmodified opinion issued by EP is unsupported by evidence. Hence, the charges in para 40 above regarding non-compliance with SA 700 stand proved.

Non-Compliance with other SAs

44. The EP was charged with non-compliance with the following provisions of SAs:

- a. Para 6, 7, 8, 9 & 10 of SA 300¹⁴ as the EP failed in establishing an overall audit strategy and development of audit plan etc. in accordance with SA 300.
- b. Para 5, 6 & 11 of SA 315 and para 1, 5 & 6 of SA 330¹⁵ as the audit file lacks any documentation regarding the performance of risk assessment procedures for material misstatements at the financial statement level and assertion level and response to such risks etc.
- c. Para 10, 11 & 14 of SA 320 for determining materiality, performance materiality and documentation thereof.
- d. Para 5, 6, 8, 14 & 15 of SA 450¹⁶ absent the evaluation of identified misstatements and uncorrected misstatements.
- e. Para 5, 6 and 8 of SA 510¹⁷ relating to the performance of necessary audit procedures and obtaining sufficient and appropriate audit evidence to ascertain the accuracy of Opening Balances and the accounting policies reflected in the Opening Balances.
- f. Para 6 of SA 520¹⁸ relating to design and performance of analytical procedures.
- g. Para 4, 6, 7, 8 & 9 of SA 530¹⁹ relating to the determination of sample design, sample size and required audit procedures.
- h. Para 8, 9 & 10 of SA 580²⁰ regarding obtaining written representations from the management about their responsibilities.

45. The EP replied that *“there is no such non-compliance. In fact, all these SAs were applicable in the FY 2016-17 also and therefore complied with strictly in lines with FY 2016-17.”*

46. The reply of the EP is not acceptable in the absence of any evidence in the Audit File. The replies are also not in conformity with the SAs for the reasons stated in Para 32 to 37 above read with the requirements of para 75 of SQC 1 and paras 14, 15 and A21 of SA 230 regarding the completion of the assembly of the final audit engagement file within 60 days after the date of the auditor's report.

¹⁴ SA 300, planning an Audit of Financial Statements.

¹⁵ SA 330, The Auditor's Responses to Assessed Risks

¹⁶ SA 450, Evaluation of Misstatements Identified during the Audit

¹⁷ SA 510, Initial Audit Engagements – Opening Balances

¹⁸ SA 520, Analytical Procedures

¹⁹ SA 530, Audit Sampling

²⁰ SA 580, Written Representations

D. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE EP

47. Given the above-mentioned actions and omissions, it is established that CA Aabhas Tiwari did not comply with the stipulations in the Chartered Accountants Act, 1949 regarding the acceptance of the statutory audit engagement and showed gross negligence and lack of due diligence while accepting an invalid appointment as auditor. In addition to accepting a legally invalid appointment, the EP also did not ensure the audit quality. The EP was grossly negligent in performing his professional duties by not adhering to the requirements laid down by the relevant SAs. This has led to the issuance of an audit report not backed by valid audit evidence and the absence of quality in the audit work. Specifically, the following failures on the part of EP Aabhas Tiwari as contained under the Articles of Charges in the SCN are established.

- a) Failure to exercise due diligence and ascertain from the audited Company whether the requirements of Sections 139 of the Act in respect of such appointment had been duly complied with, as explained and proved in part C-I above. (As per Section 22 and Clause 9 of Part I of the First Schedule to the CAs Act);
- b) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties, because of the lapses and omissions as explained and proved in parts C-I and C-II above. (As per Section 22 and Clause 7 of Part I of the Second Schedule to the CAs Act);
- c) Failure to obtain sufficient information which is necessary for the expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion, because of the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 8 of Part I of the Second Schedule to the CAs Act); and
- d) Failure to invite attention to material departure from the generally accepted procedures of audit applicable to the circumstances of the audited Company, because the EP certified in the report that the audit was done as per SAs mandated under section 143 of the Act and committed the lapses and omissions as explained and proved in part C-II above. (As per Section 22 and Clause 9 of Part I of the Second Schedule to the CAs Act).

Thus, we find that EP Aabhas Tiwari committed professional misconduct, as defined in the respective clauses of the CAs Act, the meaning of which is conceived under Section 132 (4) of the Companies Act as amounting to professional misconduct.

E. PENALTY AND SANCTIONS

48. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The law lays down a minimum punishment for such misconduct.
49. The information contained in the Financial Statement, in this case, includes material information from the Branches of the Company, where a substantial part of the lending activities was carried out.
50. A Branch Auditor is duty-bound to examine and ascertain the integrity of the underlying information forming Financial Statements of such entities²¹ in the larger public interest.
51. In this case, while all the documents and reports described the engagement as a statutory branch audit and while in substance as well as in form it was a statutory branch audit, none of the legal

²¹ As defined in Rule 3 of NFRA Rules 2018

requirements regarding the appointment of the statutory audit were complied with. More importantly, the EP performed the audit as a statutory audit. He was well aware that these reports would ultimately be used by the Company's auditor, to whom these reports were addressed. The EP also certified in his report that the engagement is performed as per SAs. Despite all these facts, the evidence shows several non-compliance with applicable SAs. The nature and extent of non-compliance with the SAs led to a baseless audit opinion, which was finally referred to in the report of Chaturvedi & Shah, the Company's statutory auditors.

52. The EP in the present case was required to ensure compliance with SAs to achieve the necessary audit quality and lend credibility to the reports he issued to facilitate the Company's Auditor to issue their report on the Financial Statements. As detailed in the foregoing paragraphs, there were deficiencies in the Audit right from the acceptance of the Audit without due diligence in ascertaining the validity of the offer, to the actual conduct of the audit, which establishes his gross negligence resulting in professional misconduct. In fact, accepting an audit assignment in contravention of the Law and continuing it in non-conformity with the SAs, constitutes a flagrant violation of the Law. We also conclude that despite being a qualified professional, CA Aabhas Tiwari has not adhered to the Standards on Auditing and the provisions of the law.
53. As demonstrated by the discussions above, there are gaps in his understanding of SAs that need to be addressed.
54. We also note that the EP has admitted the lapse in accepting the Audit. Considering the fact that the EP has admitted his mistake regarding the acceptance of the engagement and that professional misconduct has been proved and considering the nature of violations and principles of proportionality and keeping in mind the deterrence, signalling value of the sanctions and time required for improvement in knowledge gaps, we, in the exercise of powers under Section 132(4)(c) of the Companies Act, 2013, proceed to order the following sanctions:
 - i. Imposition of a monetary penalty of ₹ 100,000 (One Lakh) upon CA Aabhas Tiwari;
 - ii. CA Aabhas Tiwari is debarred for **six months** from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
55. This order will become effective after 30 days from the date of issue of this order.

Sd/-

(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Sd/-

(Dr Praveen Kumar Tiwari)
Full-Time Member

Sd/-

(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority.

Date: 29.09.2023
Place: New Delhi


(Vidhu Sood)
Secretary
सचिव / Secretary
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण
National Financial Reporting Authority
नई दिल्ली / New Delhi

To,
CA Aabhas Tiwari,
ICAI Membership No - 403045,
Partner, M/s Mangesh V Kekre & Associates,
Chartered Accountants,
(ICAI Firm Registration No: 012530C)
82, Rohit Nagar, Phase – 1,
Near Bansal Colony, Bawadia Kalan,
Bhopal-462035 M.P.
Email: aabhastiwari@gmail.com

Copy To: -

- (i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- (ii) Reserve Bank of India
- (iii) Securities and Exchange Board of India, Mumbai.
- (iv) Secretary, Institute of Chartered Accountants of India, New Delhi.
- (v) The Compliance Officer, DHFL
- (vi) IT-Team, NFRA for uploading the order on the website of NFRA.