



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

PR 185/16/DD/220/2016/DC-1422/2021

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

File No.: PR 185/16/DD/220/2016/DC-1422/2021

In the matter of:

Sh. K R Manjunath, Bangalore
Chief Manager and Relationship Manager-II,
Specialized Mid Corporate Branch, SBI,
No. 97, Railway Parallel Road,
Kumarapark West, Geeta Mandir Road,
Bengaluru - 560020

...Complainant

Versus

CA. Sudhakar C (M. No. 026064)
Partner, M/s Venkat Kollali & Murthy,
Chartered Accountants,
No. 25, 1st Floor,
Gover Road, Cox Town,
Bengaluru - 560005

...Respondent

Members present:

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

Date of Final Hearing: 03.05.2022 through Video Conferencing

1. That vide report dated 07.12.2022, the Disciplinary Committee was of the opinion that CA. Sudhakar C (M. No. 026064) was GUILTY of Professional misconduct falling within the meaning of Item (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to statutory audit of M/s. Metal Closures (P) Ltd (hereinafter referred to as 'the Company'). It was noted that the Respondent was statutory auditor of the Company from Financial Year 2007-08 to Financial Year 2013-14.

It was noted that the Company was enjoying comprehensive credit facilities under consortium arrangement aggregating to Rs. 183.65 crores, with SBI being the Lead Bank (hereinafter referred to as the "Complainant Bank"). Its accounts were classified as NPA as per RBI norms during FY 2014-15 and based on the decision of the consortium, the Complainant Bank conducted the Forensic Audit of accounts of the Company through M/s. Risk Richter, Bangalore which revealed some adverse features on the books of accounts maintained by the Company and on its financial statements. The said Forensic Audit Report pertaining to Financial Year 2012-13 to FY 2014-15 (C-5 to C-45) was the basis of allegations made against the Respondent primarily for FY 12-13. It was alleged that the Respondent being statutory auditor failed to report on

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- (i) Alleged fictitious debtors and correct position of debtors and sales transaction created and entered in the books of account of the Company,
- (ii) Failure to properly verify the inventory records and correct position of stock / inventory, in the financial statements,
- (iii) Failure to disclose the related party transactions in the financial statements and
- (iv) Suppression of real income generated out the sale of scrap transactions.

It was noted that Item (7) and (8) of Part I of Second Schedule states as under:-

Second Schedule

PART I: Professional misconduct in relation to chartered accountants in practice

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

...

“(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;

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

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated **17th April 2023** was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on **3rd May 2023** through video conferencing.

3. During the hearing held on **3rd May 2023**, the Committee noted that the Respondent was not present before it for hearing. It was noted that the Respondent vide email dated **26th April, 2023** expressed his inability to appear before the Committee on account of his health and personal issues. The Respondent stated that he had already submitted his written submissions in the matter vide letter dated **22nd January 2023**. Accordingly, as per Rule 19(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee decided to proceed in the matter. Upon consideration of the facts and circumstances of the case and after due deliberations on the Report, the Committee decided the matter.

4. The Committee considered the facts and submissions placed on record and noted that with respect to the allegation regarding failure to disclose the alleged fictitious debtors and correct position of debtors, the fact that sales transactions were created and entered in the books of account of the Company year after year as well as that of inventory, the Committee noted that the Respondent had persistently stated to have verified the sales based on VAT returns and the inventory based on stock statements submitted with the Bank. It was viewed that firstly, the Respondent being an auditor was responsible in respect of sales and debtors - to examine the available records to verify the validity, accuracy and recoverability of the debtor balances. Further, the extent of such examination was to be assessed through evaluation of the efficacy of internal controls. In the extant case, he had verified debtors from VAT returns that too on test check basis which signify that he had verified the sales transaction as reflected in VAT returns but failed to check either the debtors balance as outstanding at the end of the period nor the recoverability of the said debtors. The fact that 'Tinko' was one of the vendors and not the customer still the sales transactions were adjusted through his ledger signify that the Respondent had failed to verify the facts as given in the records especially when he was the statutory auditor of the Company since FY 2007-08. Further, with respect to inventory, the Respondent, being statutory auditor could not depend either on the stock statements as submitted to the Banks or that of physical verification report of the management. He was required to perform independent audit procedures to obtain

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sufficient appropriate audit evidence regarding the existence of inventory. However, it was noted that, in extant matter, the Respondent did not perform sufficient audit procedures to ensure the existence of inventory and simply relied on the physical verification report of the management of the Company and thus failed to obtain sufficient information which was necessary for expressing his opinion on the financial statements of the Company for the alleged periods. Moreover, it was noted that though the audit working papers for the relevant period were called upon from the Respondent but he had not submitted either the copies of VAT returns, reconciliation statement in respect of amount of sales / debtors reported in the balance sheet for the FY 2012-13 (C-95) or other evidences relied upon by him to verify the facts relating to sales, debtors and inventory. Thus, it was viewed that the Respondent had failed to exercise due diligence while conducting the audit of financial statements of the Company and failed to verify the key elements as appearing in the financial statements of the Company.

4.1 With respect to the allegation relating to failure to disclosed related party transactions, it was noted that the Company had created fictitious accounts viz., B. P. Holding Ltd, B.P. Holding (CT), B. P. Holding (P) Ltd, BP Metal Packs (P) Ltd, Mettle Infotech P Ltd and transactions had been made with these entities. As per forensic report transactions with said B. P. Holding Group of Accounts were peculiar in nature and that the group of accounts were created and designed to obfuscate transactions that were not in line with the regular and actual business activity of the Company. The Respondent submitted to have verified related party information from the register maintained under **Section 370** of the Companies Act, 1956 and that, as per him, the management of the Company had withheld the information about existence of such parties and transactions with them. Moreover, when it was noted that there were transactions with sister concerns of the Company namely Emcee Crowns Pvt Ltd, Mettle Infotech Pvt Ltd and BP Metal Packs Pvt Ltd as evident from copy of Trial balances submitted by the Respondent as part of his working papers for the FY 2011-12 (D-206 to D-217) and 2012-13 (D-164 to D-181), still he failed to report the said transactions as Related Party Transactions stating that he was not aware of existence of any relationship with such parties. It was noted that the Respondent had failed to submit any documentary evidence to prove that sufficient audit procedures were performed by him to obtain information about related parties as envisaged under SA 550- Related parties. Accordingly, the Committee viewed that the defense taken by the Respondent lacks credibility and further supports the version of the Forensic Auditor and the Complainant Bank. Thus, the Committee viewed that the Respondent failed to report the deviation in respect of non-disclosure of related party transactions in the financial statements of the Company.

4.2 With respect to the allegation regarding suppression of real income generated out the business from sale of scrap, the Committee noted that whereas the Forensic Auditor reported short fall in the value of Scrap Sales of the Company as reported in the financial, the Respondent had submitted to have verified the same from VAT records as well as receipt of money. However, it was noted that the Respondent had failed to produce any working papers except copy of certain ledger accounts for the FY 2012-13, from which, it is noted that various transactions entered with various concern were recorded under the head 'Scrap Debtors' (D-170 & D-212) which raises doubt on records produced. It was viewed that though it could be 'Tax collected at Source on Scrap' ledger but if all the sales were recorded under the head 'Scrap Debtors', it was not possible to control various accounts because such recording fail to provide the transactions that took place with specific parties. Further, it was noted that the Respondent had failed to review the effectiveness of internal control system with respect to Scrap sales as the sale price being charged was also being questioned. Thus, it was noted that the Respondent, being statutory auditor, had failed to exercise due diligence in conducting audit of the financial statements of the Company.

4.3 In view of discussion held above, it was noted that the Respondent had mainly took a defense that the management of the Company was responsible for all the allegations raised by the



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Complainant which does reflect on the credibility of the Respondent as an independent auditor. The Respondent being the statutory auditor of the Company was required to independently check, examine, and verify the facts submitted by the management of the Company to secure and protect the interest of the investors, banks and other stakeholders at large. In the absence of such exercise on the part of the Respondent, the Committee viewed that the Respondent was grossly negligent while conducting the audit of financial statements of Company. He failed to obtain sufficient audit evidence to express opinion on the financial statements. Accordingly, in the considered opinion of the Committee, the Respondent is held Guilty of Professional Misconduct falling within the meaning of Item (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Item (7) and Item (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the name of the Respondent **CA. Sudhakar C (M. No. 026064)** be removed for a period of 1 (One) year from the Register of members alongwith a fine of Rs. 50,000/- (Rupees Fifty Thousand Only) be levied upon him that shall be payable within a period of 3 (Three) months from the date of receipt of the Order and in case he failed to pay the same as stipulated, the name of the Respondent be removed from the Register of members for a further period of 1 (One) month as per the order of the Committee.

Sd/-

[CA. Aniket Sunil Talati]
Presiding Officer

Sd/-

[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-

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

Sd/-

[CA. Sushil Kumar Goyal]
Member

Sd/-

[CA. Piyush S Chhajed]
Member

Date: 19th May, 2023
Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिना नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
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CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2022-23)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No. [PR 185/16/DD/220/2016/DC-1422/2021]

In the matter of:

**Sh. K R Manjunath, Bangalore
Chief Manager and Relationship Manager-II,
Specialized Mid Corporate Branch, SBI,
No. 97, Railway Parallel Road,
Kumarapark West, Geeta Mandir Road,
Bengaluru - 560020**

.....Complainant

Versus

**CA. Sudhakar C (M. No. 026064)
Partner, M/s Venkat Kollali & Murthy,
Chartered Accountants,
No. 25, 1st Floor,
Gover Road, Cox Town,
Bengaluru - 560005**

.....Respondent

Members present:

**Smt. Anita Kapur, Presiding Officer & Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Vishal Doshi, Member
CA. Sushil Kumar Goyal, Member**

Date of Final Hearing: 3rd November, 2022 through Video Conferencing

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Charges in Brief:

1. The Committee considered the *prima-facie* opinion of the Director (Discipline) and on consideration of the same, concurred with the reasons given against the charge(s). The Respondent was held *prima facie* guilty of Professional Misconduct falling within within the meaning of Item (7) and Item (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

The Item (7) and Item (8) to Part I of Second Schedule state as under: -

Part I of Second Schedule:

PART I: Professional misconduct in relation to chartered accountants in practice

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

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

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

Brief background and the allegations against the Respondent:

2. In the extant case, it is stated that M/s. Metal Closures (P) Ltd (hereinafter referred to as the "Company") was enjoying comprehensive credit facilities under consortium arrangement aggregating to Rs. 183.65 crores, with SBI being the Lead Bank (hereinafter referred to as the "Complainant Bank"). Other members of the consortium were Punjab National Bank, UCO Bank, Corporation Bank. Its accounts were classified as NPA as per RBI norms during FY 2014-15 and based on the decision of the consortium, the Complainant Bank conducted the Forensic Audit of accounts of the Company through M/s. Risk Richter, Bangalore which revealed some adverse features on the books of accounts maintained by the Company and on its financial statements.

The Respondent firm was the Statutory Auditors of the Company from FY 2007-08 till FY 2013-14. The brief of the allegations levelled by the Complainant are as under:-

- (i) Non-cooperation by not providing necessary information to the Forensic Audit Team with respect to annual financial statements (**C-46 to C-107**) signed by Respondent as Statutory Auditor.
- (ii) Failure to disclose the alleged fictitious debtors and correct position of debtors and sales transaction created and entered in the books of account of the Company.
- (iii) Failure to properly verify the inventory records and correct position of stock / inventory, in the financial statements.
- (iv) Failure to disclose the related party transactions in the financial statements.
- (v) Failure to report alleged fictitious entry posted as "Share Application Money A/c" for Rs. 1.87 crores in the books of account for the year 2012-13 (**C-95**).
- (vi) Suppression of real income generated out the business in the sale of scrap transactions.
- (vii) The Company had also received show cause notices (**D-3 to D-8**) from the Govt. Authorities viz. Joint Director General of Foreign Trade (JDGFT) about the non-fulfilment of EPCG obligations by Company for years 2011 & 2012 and demanding payment of Custom Duty. The Respondent being the Statutory Auditor ought to have perused the details and should have commented on this contingent liability.

2.1 The Committee noted that out of the above Six (6) allegations leveled against the conduct of the Respondent, he was *prima facie* guilty with respect to allegations discussed in paragraphs (ii), (iii), (iv) and (vi) above. The Committee held the extant inquiry with respect to the said allegations only.

Proceedings:

3. During the hearing held on **3rd November 2022**, the Committee noted that neither the Complainant appeared before it nor any communication was received from it in respect of the hearing although notice of the extant hearing was delivered. The

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Committee further noted that the Respondent vide email dated Oct 28, 2022 expressed his inability to appear before the Committee for hearing due to health issues and family reasons. In any case, he requested the Committee to consider his written as well as oral submissions as available on record. Accordingly, the Committee decided to proceed in the matter.

The Committee noted that the matter was substantially heard during the last hearing and that matter could not be concluded due to change in constitution of the Bench. Accordingly, the Committee considered the facts and submissions as available on record.

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

Findings of the Committee:

4. At the outset, the Committee noted that while raising allegations against the Respondent, in most of the allegations, the period to which the allegations pertained to was not mentioned, but the Complainant had referred to Forensic Audit Report (C-5 to C-45) in his allegations. Accordingly, from the forensic audit report on record (C-5 to C-45), it is noted that the period under review for the forensic audit was from FY 2012-13 to FY 2014-15 which signify that the stated allegations pertained to the said period whereas the Respondent was the statutory auditor of the Company till the FY 12-13.

5. With respect to the (ii) allegation regarding failure to disclose the alleged fictitious debtors and correct position of debtors, sales transaction created and entered in the books of account of the Company year after year as well as that of inventory, the Committee noted that the submissions of the Respondent that the management was responsible for the preparation of these financial statements that give a true and fair

view of the financial position, financial performance and cash flows of the Company in accordance with the Accounting Standards. It was submitted that the Respondent had verified the Sales on test check basis and cross verified with VAT returns filed with Commercial Tax Authorities. Since the total sales were in agreement with VAT monthly returns, the Respondent formed an opinion that there was no fictitious sale. Further, the audit report for FY 2012-13 along with the notes on accounts (note no. 39) stated that the debtors are subject to confirmation.

5.1 On perusal of Forensic Audit Report issued by M/s. Risk Ritcher dated 17/03/2016 (C-5 to C-45) the Committee noted following findings in this regard:-

".....On our analysis on above subject it was noticed that four categories of Debtors were maintained in the books of account as detailed below:

- 1. SBI Debtors*
- 2. Global Trade Finance Debtors*
- 3. Scrap Debtors*
- 4. Bills Direct*

On further analysis of the above categories we find that only the SBI Debtors and Scrap Debtors are eligible to be included for calculating the drawing power with consortium banks.

The Debtors belonging to Global Trade Finance are not eligible to be included in the debtors amount for the purpose of calculating the drawing power of consortium banks because all these debtors were financed by the Global Trade Finance.

Another category Bills Direct belongs to the amount paid to the fictitious accounts and sister concerns (viz., B.P Holdings, B.P Holding (CT), B. P. Holding Pvt Ltd, B.P Metal Packs Pvt Ltd, Mettle Infotech P Ltd, Herbertsons Ltd & Mcdowell & Co Ltd). In the case of Herbertsons Ltd and Mcdowell & Co Ltd fictitious transactions were posted to the account. This was achieved by posting the balance amount from the rounded off amount settled with the customer or sometimes even with amounts written off against the customer. The stock balances at ICD were also manipulated to inflate Receivables. Though these two accounts the debtor's balances of Rs. 18.02 Crs and Rs. 20.71 Crs were inflated respectively. In the factitious accounts and sister companies the monies withdrawn by Mr. Bannampalli Prashant Hegde were posted(C-36)."

*".....During 2012-13 a fictitious entry for an amount of Rs. 16.96 Crs was posted just to increase the debtor's amount. For this transaction a new debtor name was created viz., "TINKO Receivables". **Actually there is no billing done against that customer. Moreover TINKO is a vendor of the company and not a customer. By crediting the***

“TINKO” ledger the liability got increased and by debiting the “TINKO Receivables” ledger the receivables amount was increased. By posting this entry on debtors the drawing power got increased. On very next day i.e., the first day of the next financial year 2013-14 this transaction was reversed(C-37).”

5.2 The Committee further perused the audit report issued by the Respondent for the FY 2012-13 dated 29/07/2013 wherein it was stated that he had obtained all the information and explanation as required by him for the purpose of audit (C-88). Further, in Note no. 38/39 it was stated that *“Confirmation of balances from Sundry Debtors, Sundry creditors, from customers from whom advances are received against supplies, from the suppliers to whom the advances are made for purchases are to be received (C-86, C-107)”*. The Committee further observed that as per the Respondent it was the responsibility of the management of the Company for preparation of the financial statements and that he had verified Sales on test check basis/ cross verification with VAT returns filed with Commercial Tax Authorities. It was viewed that firstly, the Respondent being an auditor was responsible to examine the available records to verify the validity, accuracy and recoverability of the debtor balances. Further, the extent of such examination was to be assessed through evaluation of the efficacy of internal controls. In the extant case, he had verified debtors from VAT returns that too on test check basis which signify that he had verified the sales transaction as reflected in VAT returns but failed to check either the debtors balance as outstanding at the end of the period nor the recoverability of the said debtors. The fact that ‘Tinko’ was one of the vendors and not the customer and that transaction were adjusted through his ledger signify that the Respondent had failed to verify the facts as given in the records especially when he was holding the statutory auditor of the Company since FY 2007-08. It was noted that though the audit working papers for the relevant years were called for from the Respondent but he had not submitted the copies of VAT returns, reconciliation statement in respect of amount of sales / debtors reported in the balance sheet for the FY 2012-13 (C-95). Thus, it was viewed that the Respondent had failed to exercise due diligence while conducting the audit of financial statements of Company and failed to verify the sales and debtors figures as appearing in the financial statements of the

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Company. Accordingly, in the considered opinion of the Committee, the Respondent is held GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

6. With respect to the (iii) allegation regarding failure to properly verify the inventory records and correct position of stock / inventory, in the financial statements over the past several years, the Committee noted the submissions of the Respondent wherein he stated that the inventory was physically verified by the management. The Respondent also cross verified the stock statements submitted to the bank and the same value of stock was stated in the financial statements. He also stated that even the consortium bankers had to inspect the assets charged to it. However, the Respondent was never provided with the said stock audit reports. As per him, the forensic auditors had not considered the stock @ ICD and also Stock in Transit in Closing Stock.

6.1 The Committee perused the Forensic Audit report(C-35) wherein while examining the Inventory and Debtors Position it was stated that

"On our analysis on the inventory figures from the financial year 2010-11 onwards fifty percent of the stock was available at the unit in Himachal Pradesh and fifty percent of the stock at Kanakapura factory. In our further analysis, as detailed in the debtors analysis, fictitious debtors were created there would not be corresponding genuine sale and in turn corresponding genuine production. This scenario was achieved by manipulating the stock at ICD stock. Since there is no production it can be concluded that the stock value to this extent was manipulated by the company. Hence we find that the company has committed manipulation of the stock value in the monthly stock statements and in the Balance Sheet. (C-35) "

From the above, it is noted that ICD stock never existed and that the Respondent had relied upon the physical verification conducted by the management. In this regard, the Committee noted that Para 4, 6, and 7 of SA-501 – 'Audit Evidence – Specific

Signature

Considerations for Selected Items' (effective for all audits relating to accounting periods beginning on or after April 1, 2010) which read as under:

"Inventory

4. When inventory is material to the financial statements, the auditor shall obtain sufficient appropriate audit evidence regarding the existence and condition of inventory by:

(a) Attendance at physical inventory counting, unless impracticable, to: (Ref: Para. A1-A3)

(i) Evaluate management's instructions and procedures for recording and controlling the results of the entity's physical inventory counting; (Ref: Para. A4)

(ii) Observe the performance of management's count procedures; (Ref: Para. A5)

(iii) Inspect the inventory; and (Ref: Para. A6)

(iv) Perform test counts; and (Ref: Para. A7-A8)

(b) Performing audit procedures over the entity's final inventory records to determine whether they accurately reflect actual inventory count results.

.....

6. If the auditor is unable to attend physical inventory counting due to unforeseen circumstances, the auditor shall make or observe some physical counts on an alternative date, and perform audit procedures on intervening transactions.

7. If attendance at physical inventory counting is impracticable, the auditor shall perform alternative audit procedures to obtain sufficient appropriate audit evidence regarding the existence and condition of inventory. If it is not possible to do so, the auditor shall modify the opinion in the auditor's report in accordance with SA 705. (Ref: Para. A12-A14)" (emphasis added)

6.2 Thus, it is noted that the Respondent being the Auditor of the Company could not depend on the physical verification report of the management conducted for the inventory. The Committee viewed that under the provisions of SA-501, he was required to perform audit procedures to obtain sufficient appropriate audit evidence regarding the existence of inventory. It appears that the Respondent did not perform sufficient audit procedures to ensure the existence of inventory and simply relied on the physical verification report of the management of the Company and thus failed to obtain sufficient information which was necessary for expressing his opinion on the financial statements of the Company for the alleged periods.

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6.3 The Committee further viewed that the Respondent being the statutory auditor of the Company was required to independently check, examine and verify the facts submitted by the management of the Company to secure and protect the interest of the investors, banks and other stakeholders at large. In the absence of such exercise on the part of the Respondent, the Committee viewed that the Respondent was grossly negligent while conducting the audit of financial statements of Company. He failed to obtain sufficient audit evidence to express opinion on the financial statements. Accordingly, in the considered opinion of the Committee, the Respondent is held **Guilty** of Professional Misconduct falling within the meaning of Item (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7. With respect to the (iv) allegation(C-9 to C-13) relating to failure to disclosed related party transactions, it is alleged that fictitious accounts were created and transactions were made with these accounts which were also related parties. That the Company had created fictitious accounts viz., B. P. Holding Ltd, B.P. Holding (CT), B. P. Holding (P) Ltd, BP Metal Packs (P) Ltd, Mettle Infotech P Ltd and transactions had been made with these entities. On perusal of Forensic Audit Report, it was noted (C-9 to C-12) that during examination of the books of accounts of the Company, it was observed that the transactions appearing in B. P. Holding Group of Accounts were peculiar in nature. It was further stated that on an analysis of the transactions held with the B.P. Holding Group of Accounts, it was found that the group of accounts were created and designed to obfuscate transactions that were not in line with the regular and actual business activity. The nature of transactions seen in the accounts included:

- i) transfer of funds to and from Consortium Banks
- ii) transfer of funds to and from Non-Consortium Banks
- iii) transfer of funds to and from Mr. Bannampalli Prashant Hegde, Mrs. Shireen Hegde who was wife of Mr. Bannampalli Prashant Hegde and Ms. Sonal Hegde i.e. daughter of Mr. Bannampalli Prashant Hegde

- iv) transfer of funds to the sister concerns of MCPL which were BP Metal Packs Private Limited, Mettle Infotech Private Limited and Emcee Crowns Private Limited.

7.1 The Committee further noted the submissions of the Respondent that according to the explanation and information given to him by the management that were no transactions with related parties other than remuneration and sitting fee to directors. The Respondent verified the related party disclosures as per register maintained under Section 301 of the Companies Act, 1956 and shown to the Respondent at the time of audit. Further, the Board Minutes provided to the Respondent for verification did not disclose any of the related party disclosures had been entered into.

7.2 The Committee noted that **Section 370** of the Companies Act, 1956 provides for Loans, etc., to companies under the same management and the said transactions requires for prior authorisation by way of Special Resolution. The Committee further noted that **para 23 of the AS 18 - Related Party Disclosures** provides for disclosure with respect to transactions entered during the period with Related parties and the same is reproduced hereunder for ready reference

"23. If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following:

- (i) the name of the transacting related party;*
- (ii) a description of the relationship between the parties;*
- (iii) a description of the nature of transactions;*
- (iv) volume of the transactions either as an amount or as an appropriate proportion;*
- (v) any other elements of the related party transactions necessary for an understanding of the financial statements;*
- (vi) the amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and*
- (vii) amounts written off or written back in the period in respect of debts due from or to related parties."*

B. S. R.

7.3 The Committee further noted that Para 3, 4 & 9 of SA-550 – ‘Related Parties’ reads as under:

“Responsibilities of the Auditor

3. *Because related parties are not independent of each other, many financial reporting frameworks establish specific accounting and disclosure requirements for related party relationships, transactions and balances to enable users of the financial statements to understand their nature and actual or potential effects on the financial statements. **Where the applicable financial reporting framework establishes such requirements, the auditor has a responsibility to perform audit procedures to identify, assess and respond to the risks of material misstatement arising from the entity's failure to appropriately account for or disclose related party relationships, transactions or balances in accordance with the requirements of the framework.***

4. *Even if the applicable financial reporting framework establishes minimal or no related party requirements, the auditor nevertheless needs to obtain an understanding of the entity's related party relationships and transactions sufficient to be able to conclude whether the financial statements, insofar as they are affected by those relationships and transactions: (Ref: Para. A1)*

(a) *Achieve a true and fair presentation (for fair presentation frameworks); or (Ref: Para. A2)*

(b) *Are not misleading (for compliance frameworks). (Ref: Para. A3)” (emphasis added)*

“Objectives

9. *The objectives of the auditor are:*

(a) *Irrespective of whether the applicable financial reporting framework establishes related party requirements, **to obtain an understanding of related party relationships and transactions sufficient to be able:***

(i) ***To recognise fraud risk factors**, if any, arising from related party relationships and transactions that are relevant to the identification and assessment of the risks of material misstatement due to fraud; and*

(ii) ***To conclude whether the financial statements**, insofar as they are affected by those relationships and transactions:*

a. *Achieve a true and fair presentation (for fair presentation frameworks); or*

b. *Are not misleading (for compliance frameworks); and” (emphasis added)*

7.4 The Committee noted that though the Respondent has taken a defense that he had verified the related party disclosures as per register maintained under section 301 of the Companies Act 1956 as shown to him at the time of audit, but he had failed to submit

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any documentary evidences to prove the audit procedures performed by him in this regard. It is further noted that in the forensic audit report (C-10 to C-11), it is stated that Mr. B. Prashant Hegde and Dr. Shereen Hegde who were the directors of the Company, were also acting as the directors of other sister concerns namely Emcee Crowns Pvt Ltd, Mettle Infotech Pvt Ltd and BP Metal Packs Pvt Ltd. The Committee also noted that the Respondent has submitted the copy of Trial balances as part of his working papers for the FY 2011-12 (D-206 to D-217) and 2012-13 (D-164 to D-181), from which, it is noted that various transactions done/entered with aforesaid sister concerns appear under the head 'Sundry Debtors' (D-170 & D-212) in trial balances but the same were not reported / disclosed as Related Party transactions in the financial statements of the Company for the FY 2011-12 and FY 2012-13. Accordingly, the Committee viewed that the defence made by the Respondent lack credibility and further supports the version of the Forensic Auditor/ Complainant Bank. The Committee viewed that the Respondent failed to report the deviation in respect of non-disclosure of related party transactions in the financial statements of the Company and thus, the Respondent is held **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

8. With respect to the (vi) allegation regarding suppression of real income generated out the business in the sale of scrap transactions, the Committee noted the submissions of the Respondent that the sale proceeds from scrap were cross verified with VAT Returns submitted to the concerned authorities and as well as for the receipt of the money. As per him, the tax records were statutory record that had been relied upon by him and that there was no way as an auditor, the Respondent could presume receipts of cash which was not recorded in the books of account or any other document with the Company.

The Committee perused the Forensic Audit Report dated 17th March, 2016 wherein while dealing with Scrap Sale Transactions it stated as under:-

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"Based on the analysis if we apply the average rate of Rs. 104 for Kanakapura unit scrap sales, the total scrap sales would be Rs. 5,29,43,961/-. So the short fall is Rs. 2,19,06,871/-.

During out interview with Mr. Mahesh N Hegde the reduction in selling rate of scrap was accepted by him and he informed that the difference amount used to be collected in the form of cash and handed over to Mr. Bannampalli Prashant Hegde....(C-41)."

The Forensic Auditor further raised the question on the scrap sales from the beginning of the period from April 2006 to March 2015 and submitted that on the said methodology the total short fall is Rs. 7,81,07,144/-.

The Committee noted that the Respondent alongwith his written submissions submitted the details about the Scrap Sales of the Company for FY 2012-13 with respect to Unit I, EOU and Unit II of the Company. Upon perusal of the same, the Committee viewed that total scrap sales of the Company for the said FY amounts to Rs. 2,48,26,013/-. It was noted that the Respondent had submitted to have verified from VAT records as well as receipt of money. However, the Respondent had failed to produce any working papers except copy of certain ledger accounts for the FY 2012-13, from which, it is noted that various transactions entered with various concern were recorded under the head 'Scrap Debtors' (D-170 & D-212) which raises doubt on records produced. It is viewed that though it could be 'Tax collected at Source on Scrap' ledger but if all the sales were recorded under the head 'Scrap Debtors', it was not possible to control various accounts because such recording fail to provide the transactions that took place with specific parties. Moreover, a part from the sale transactions, the Respondent was also responsible to review the reasonability of sale price charged which also signify the effectiveness of internal control system. However, the Respondent failed to exercise due diligence in conducting audit of the financial statements of the Company. Accordingly, the Committee viewed that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

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9. Accordingly, in light of above, the Committee was of the considered view that the Respondent had not carried out duties assigned to him being Statutory Auditor M/s. Metal Closures (P) Ltd from FY 2007-08 till FY 2013-14 and for the said laxity, the Committee was of the view that the Respondent is Guilty of Professional Misconduct under Item (7) and Item (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:-

10. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct Item (7) and Item (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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

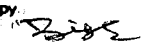
Sd/-
[Dr. K. Rajeswara Rao]
Member (Govt. Nominee)

Sd/-
[CA. Vishal Doshi]
Member

Sd/-
[CA. Sushil Kumar Goyal]
Member

Date: 7th December, 2022
Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy


बिष्वा नाथ तिवारी / Bishwa Nath Thwari
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अनुशासनात्मक निदेशालय / Disciplinary Directorate
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