

[PPR/P/44/2014-DD/76/INF/14-DC/769/2018]

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2022-2023)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

**File No. : [PPR/P/44/2014-DD/76/INF/14-DC/769/2018] and
PPR/P/44/14/DD/76/INF/14 (Clubbed)**

In the matter of:

CA. Mukesh P. Shah (033862), Mumbai in Re:

M/s Mukesh P. Shah & Co.

Chartered Accountants,

602, 6th Floor, Express Chamber,

Opp. Natraj Studio Zone-3,

A.K. Road, Andheri (East),

Mumbai-400 069

.....Respondent

MEMBERS PRESENT:

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

DATE OF FINAL HEARING : 16.01.2023 (Through Physical/ Video Conferencing Mode)

PARTIES PRESENT

Respondent : CA. Mukesh Punamchand Shah
Respondent's Counsel : Mr. S.G. Gokhale, Advocate


CA. Mukesh P. Shah (033862), Mumbai in Re:

[PPR/P/44/2014-DD/76/INF/14-DC/769/2018]

CHARGES IN BRIEF:-

1 The Respondent was the statutory auditor of Multi Commodity Exchange of India Ltd. (hereinafter referred to as "**Company/ MCX**") for FY 2002-03 and Tax auditor from FY 2003-04 to FY 2012-13. The Committee noted that in the present case, the Director (Discipline) had held the Respondent prima-facie Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 on the following charges:

- (i) That inspite of the fact that there were various firms, in which the Respondent was the director or an interested party, which were in turn holding business relations with the MCX and were receiving payments for services, donations etc, the Respondent conducted audits of various companies as provided in the Report (Page A-165 of the Prima-facie opinion).
- (ii) The Respondent was associated with various entities that had business connections with MCX and/or had received fees for the services rendered to MCX.

BRIEF FACTS OF THE PROCEEDINGS:

2 On 27th December 2022, the Committee, in the instant matter, noted that the Respondent along with his Counsel Shri. S.G. Gokhale were present from the BKC Office, Mumbai of the ICAI. Thereafter, the Counsel of the Respondent argued on the merits of the case and presented his line of defence in detail. The Committee, after consideration of the same, decided to adjourn the case to 29th December 2022.

3 The Committee noted that 29th December 2022 the hearing in this matter was adjourned due to paucity of time.

[PPR/P/AA/2014-DD/76/INF/JA DC/769/2018]

4. On the day of the final hearing held on 16th January 2023, the Committee, in the instant matter, noted that the Respondent along-with his Counsel Shri. S G Gokhale were present at BKC office of ICAI at Mumbai. The Committee asked the Respondent/ his Counsel to submit their defence, to the extent not submitted earlier. On the same the Counsel of the Respondent submitted that he has nothing further to add. Accordingly, the Committee decided to conclude the hearing in the instant case.

FINDINGS OF THE COMMITTEE

5. The Committee also noted that the Informant (Forward Market Commission/ Ministry of Finance/ Department of Economic Affairs, Mumbai) with his information letter had forwarded copy of special audit on MCX dated 21st April 2014 conducted by PWC. The Committee noted that said report pointed out the role of the Respondent as auditor of MCX vis-a-vis his relationship with MCX and other group companies.
6. As regards the first charge, the Committee noted that as per the charge, there were various firms, in which the Respondent was the director or an interested party, which were in turn holding business relations with the MCX and were receiving payments for services, donations etc, the Respondent conducted audits of various companies as provided in the Report (Page A-165 of the prima-facie opinion). In other words, there was a conflict of interest for the Respondent to hold such a relationship, which is against the provisions of Chartered Accountants Act, 1949.
- 6.1 The Committee noted that as per prima-facie opinion the Respondent was held guilty with respect to the following instances observed by the Director (Discipline)
 - (a) MCX had donated INR 3 crores to Maitri Trust, a trust created By Mr. Mukesh P Shah, wherein Mrs. Annapoorni Iyer, wife of Mr. Annapoorni Ramachandran Iyer, (business associate of the Respondent by being

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directors of M/s Vishwas Broking) was one of the Trustees on Jan 29, 2008 which was returned on March 24.

(b) MCX granted donations of INR 1.75 crores to Arunodaya Charitable Trust, for INR 75 lacs to Vidya Prasarak Mandal, it is reported that either the Respondent or staff from his office had acknowledged receipt of the cheque from MCX (Page A-339-340, 343 of the Prima-facie opinion).

6.2 The Committee noted that, as regards Maitri Trust, the Respondent/ his Counsel submitted that the Respondent had only drafted the trust deed, and only that reason was considered as conflict of interest. As regards M/s Arunodaya Charitable trust and M/s Vidhya Prasarak Mandal is concerned, the Respondent in his submission dated 1st June 2018 had submitted that Ex-CFO of MCX Mr. Nayan Mehta had requested for use services of peon of the Respondent for delivery of donation cheques to the office of the concerned trusts.

6.3 The Committee noted that the Respondent as regarding the reason for giving acknowledgement by his Office of Respondent had mentioned that since his office and office of MCX were in proximity and adjacent, and since their peons had already left, the cheques were sent to the office of Mr. Mukesh Shah by the Accounts Department, and such cheques were routinely acknowledged. The request for the sparing services of peon was not denied. He further stated that the aforesaid fact was also confirmed by successor CFO of MCX, Mr. Vasanti before PWC (A73/74) and by Ex-CFO Mr. Nayan Mehta before Sr. Police Inspector, MIDC Police Station, Mumbai (page C-33 to C-35 of the Prima-facie opinion) & (page C-22 of the prima-facie opinion). He further submitted that he had no connections with these trusts, at any points in time. The trustee of both trust have confirmed to, the fact in their communication to Mukesh Shah have Ref (B-81) & (B-136).

6.4 The Committee further observed that the Respondent further submitted that, the issue of three donations which were referred to in the PWC report as "probable irregular transaction" pinpointing at him, the entire issue was examined, first by

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Oversight Committee formed by MCX and the latter after being satisfied with respect to two donations viz. donations to Vidya Prasarak Mandal and Maitri Trust they had decided to drop any further inquiring into the matter. Further with respect to donation to Arunodaya Charitable Trust, a complaint was filed by MCX to MIDC Police Station and on completing the investigation, MIDC Police Station had communicated to the management of MCX that no irregularity/criminal culpability was found in the donation vide letter 16.2.2015 (page C-17 of the Prima-facie opinion). Further on, in the same matter, one Mr. Ketan Shah had filed a complaint against MIDC Police Station for incomplete and shoddy nature of investigation carried out by MIDC Police Station and requested for re-investigation into the matter and the entire issue of payments related observations made by PWC, MIDC Police Station, on completion of the revised investigation had filed, their submission of a C-summary Report in which a detailed inquiry & finding was filed before Hon'ble Magistrate of Esplanade Metropolitan Court. The Magistrate had rejected the contentions of the complainant Mr. Ketan Shah and had accepted the "C-Summary Report" filed by MIDC Police in toto. The findings, inter alia, included a review of the issue of donation and held that no irregularity was found on page 10 of the order (page 65 of the Respondent's documents dated 1st June 2018).

- 6.5 The Committee, upon consideration of the reasonings submitted by the Respondent, noted that the issue relates to conflict of interest, whereby it is opined by the Director (Discipline) that the Respondent despite being an auditor of the MCX was also connected with entities having business relationships with the MCX.
- 6.6 The Committee on perusal of cheques issued by MCX for donations to the trusts (annexed as page A-339 to A-343 of the prima-facie opinion), noted that on page A-339 receiving on the cheques clearly mentioned the name of the Respondent firm i.e. "M.P. Shah & Co." Further pages A-340 and A-342 contain the signatures of person who received the cheques. The Committee, while comparing the same with the signature of the Respondent available on record (such as on page B-29,

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B-40, B-62, B-76, B-135, signature of the Respondent on his submissions dated 1st June 2018 etc.) observed that the signatures are identical.

- 6.7 The Committee further noted that it is not normal practice to have the signature of the person who is delivering the cheques, on one's behalf, on an acknowledgement letter. The acknowledgement of receipt is given only at the final recipient's end. The Committee further noted that the acknowledgements produced on record are given on different dates which established that using the services of Respondent's office was not occasional.
- 6.8 The Committee further noted that the language written on Page A-341 of the Prima-facie Opinion states that "PAY ORDER GIVEN TO MUKESH P SHAH ON 11-08-2009" confirms that Respondent itself had received such a pay order.
- 6.9 The Committee accordingly opined that the plea that the Respondent's office peon has received the cheques is a cooked-up story. The Committee noted from above that the Respondent only had issued these receipts for the cheques on behalf of the Trusts.
- 6.10 The Committee as regards donation to M/s Maitri Trust noted that that the Respondent, apart from mere denying his relations with said trust, had not brought on record any evidence to the satisfaction of the Committee that Mrs. Annapoorni Iyer, is not the wife of Mr. Annapoorni Ramachandran Iyer, (business associate of the Respondent by being directors of M/s Vishwas Broking). He also had not brought on record any evidence to the satisfaction of the Committee that he and Mr. Annapoorni Ramachandran Iyer were not directors of M/s Vishwas Broking.
- 6.11 The Committee looking into the above was of the opinion that the Respondent despite being auditor of MCX was also connected with entities having business relationship with MCX. Accordingly, the Committee hold the Respondent guilty of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

[PPR/P/44/2014-DO/76/INF/13-DO/760/2018]

7. As regards the second charge, the Committee noted that as per the charge the Respondent was associated with various entities who had business connection with MCX and/or had received fees for the services rendered to MCX.
- 7.1 The Committee noted that Respondent/ his Counsel in this regard had, inter-alia, submitted that PWC has considered the accounts for 2003-04 to 2012-13 for about 10 years. The Respondent was tax auditor during that period, and guidelines are not applicable on tax auditor.
- 7.2 The Committee noted that as per prima-facie opinion the Respondent was held guilty with respect to following instances were observed by the Director (Discipline):
- a. The Respondent was the Director of M/s Dynacons Systems & Solutions Limited ("Dynacons") during the period 15th February, 2000 to 24th September, 2013 (Para 7.2.4 and 7.2.6 on page A72 of prima-facie opinion). It is reported that MCX had paid Rs.0.91 crores to Dynacons for Facility Management (management and monitoring of IT Infrastructure) and Software Support Services for the period 22nd February, 2008 to 31st May, 2008.
 - b. The Respondent was reported to be director of Vishwas Broking Services Pvt. Ltd. from 5th March 2004 to 17 August 2013. M/s Vishwas Broking Services Pvt. Ltd. was identified as member of MCX. Mr. Ketan Shah, partner in Respondent firm and Mr. Annapoorni Ramachandran Iyer, business associate of Mukesh P Shah are directors of Vishwas Broking (Foot note no. 57 on page A-74 of the prima-facie opinion). The largest shareholder of Vishwas Broking is Subras Software, holding approximately 85% of the shares (as per documents available on the MCA website) wherein Ms. Mina Shah, wife of the Respondent is a director. In other words, the Respondent directly as well as indirectly (through Subras Software) holds substantial interest in Vishwas Broking.



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- c. Further, various individuals and entities potentially associated with the Respondent are reported to be existing in the UCC (Unique Client Code) database of MCX - Ms Mina Shah, wife, Amishi Mukesh Shah, daughter; Subras Software where Ms. Mina Shah is a director; Sigma Financial Services private Limited where the Respondent and his family are among the shareholder and Dynamatic Developers Ltd (para no.7.2.13, 9.4.4 and 9.4.5 on pages A74 & A102 of the prima-facie opinion). It is reported that all such individuals and entities had the same address as that of Respondent firm in the UCC database of MCX (Annexure 35 on page A-255 of the prima—facie opinion). It is also stated that La-fin, holding company of FTIL Group is also a shareholder of Sigma Investments holding approximately 18% of the shares.
- d. MCX had donated INR 3 crores to Maitri Trust, a trust created By Mr. Mukesh P Shah, wherein Mrs. Annapoorni Iyer, wife of Mr. Annapoorni Ramachandran Iyer, (business associate of the Respondent by being directors of M/s Vishwas Broking) was one of the Trustees on Jan 29, 2008 which was returned on March 24.

MCX granted donations of INR 1.75 crores to Arunodaya Charitable Trust, for INR 75 lacs to Vidya Prasarak Mandal, it is reported that either the Respondent or staff from his office had acknowledged receipt of the cheque from MCX (Page A-339-340, 343 of the Prima-facie opinion).

7.3 The Committee noted that the Respondent has submitted as under:

- a. that he was a non-executive director of the Vishwas Broking Services Pvt. Ltd (VBSPL) and Dynacons and the said Company neither had any transaction with MCX nor it had received any amount from MCX.
- b. As regards Dynamatic Developers Ltd being registered on UCC of MCX, the Respondent has submitted that he had allowed his audit assurance client i.e. Dynamatic Developer to use the address of his office for postal purpose since

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the said Company was from Gauhati and its Mumbai office was under repairs (page B-24 of the prima-facie opinion).

- c. As regards M/s Sigma Financial Services Private Limited (SFSPL), he is the shareholder in the company. He was neither an auditor of sigma nor had substantial interest in MCX. There were no transactions between M/s Sigma and MCX.
- d. As regards M/s La- Fin Financial Services Pvt. Ltd., he was neither a shareholder nor a director. There were no transactions between M/s La-Fin and MCX.

7.4 The Committee as regards M/s Vishwas Broking Services Pvt. Ltd., noted as under:

- a. That Respondent was a director of Vishwas Broking from 5th March 2004 to 17th August 2013 which is the time period when the Respondent was acting as a statutory auditor of various companies in FTIL Group.
- b. The largest shareholder of Vishwas Broking Service Pvt. Ltd is reported to be Subras Software, holding approximately 85% of the shares, wherein Ms. Mina Shah, wife of the Respondent is a director.
- c. Further, Mr. Ketan Shah, partner of the Respondent firm and Mr. Annapoorni Ramachandran Iyer, business associates of the Respondent are current directors of Vishwas Broking Service Pvt. Ltd.
- d. Hence, Vishwas Broking Service Pvt. Ltd was being indirectly controlled by the Respondent through his wife and his firm partner, business associate.
- e. It is also noted that the PWC Report also provides a table (Page A221-A226 of the prima-facie opinion) wherein it is reported that trading done in the name of Vishwas Broking Service Pvt. Ltd., Respondent's wife and the entity in which his wife was a Director (i.e. Subras Software) (A-232) were clubbed together.
- f. That as per Annexure 34 (Page A-253 of the prima-facie opinion) IBMA is also trading with Vishwas Broking Service Pvt. Ltd. It is pertinent to note that the Respondent was the statutory auditor of IBMA.

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- g. That the Respondent never denied that the Directorship of said company was held by the partner of the Respondent firm. Further, he was silent about 85% shareholding of said Company being held by Subros Software in which his wife was reported to be the Director **(B-18)**.

Accordingly, the Committee concluded that the Respondent was having indirect control in M/s Vishwas Broking Services Pvt. Ltd., who had relations with the entities audited by the Respondent.

7.5 The Committee as regards M/s Dynacons Systems & Solutions Limited ("Dynacons") noted that the Respondent was director of the said company during the period 15th February, 2000 to 24th September, 2013 (Para 7.2.4 and 7.2.6 on page A-72 of the prima-facie opinion). The Committee noted that the Respondent failed to provide corroborative evidence to the satisfaction of the Committee to negate the reporting that MCX had paid Rs.0.91crores to Dynacons for Facility Management (management and monitoring of IT Infrastructure) and Software Support Services for the period 22nd February, 2008 to 31st May, 2008 was at arm's length. The Committee also noted that the Respondent failed to reasonably comment, with corroborative evidence, on findings of the prima-facie opinion that according to Chief Technology Officer of MCX who approved the invoices, Dynacons was identified as a vendor by Group Procurement, FTIL and the services pertained towards setting up of data centre in MCX. The Respondent failed to reasonably comment, with corroborative evidence, on findings of the prima-facie opinion that the purchase order for Dynacons was signed by Mr. Manjay Shah, who was not an employee of MCX and Mr. Sanjay Lopej, Senior Manager Admin, MCX.

7.6 The Committee as regards M/s Subras software, M/s Sigma and M/s Dynamatic Developers Ltd noted that the Respondent submitted that there was no threat to the independence. He further submitted that M/s Subra and M/s Sigma share a common office address with him. He further submitted that Dynamatic Developers Ltd being registered on UCC of MCX, the Respondent has submitted that he had allowed his audit assurance client i.e. Dynamatic Developer to use

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the address of his office for postal purposes since the said Company was from Gauhati and its Mumbai office was under repairs (page B-24 of the prima-facie opinion). He further submitted that these entities do not have transaction with FLIT group companies.

- 7.7 The Committee noted that the auditor should be independent of the entity which is subject to the audit. This has been specifically covered under para A16 of Standard on Auditing (SA) 200 on "Overall Objectives of the Independent Auditor and the Conduct of an Audit in accordance with Standards on Auditing" which states as under: -

SA 200, Para A16 - "In the case of an audit engagement, it is in the public interest and, therefore, required by the Code of Ethics, that the auditor be independent of the entity subject to the audit. The Code describes independence as comprising both independence of mind and independence in appearance. The auditor's independence from the entity safeguards the auditor's ability to form an audit opinion without being affected by influences that might compromise that opinion. Independence enhances the auditor's ability to act with integrity, to be objective and to maintain an attitude of professional skepticism. In addition to the Code, the auditor may also be required to comply with the applicable laws and regulations."

The Committee noted that even the Companies Act, 1956 and section 141(3) of the Companies Act, 2013 lays down the disqualifications for appointment of the auditors of a company, the underlying intention of which is to ensure that a practitioner who is appointed as an auditor is able to maintain independence vis-a-vis the auditee company.

- 7.8 The Committee further noted that Section 120 of the Code of Ethics (2009 edition-page no. 8) stresses on the importance of objectivity in conduct of professional accountants

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As per section 120.1 *"The principle of objectivity imposes an obligation on all professional accountants not to compromise their professional duty or while in service judgment because of bias, conflict of interest or the undue influence of others."*

As per section 120.2 *"A professional accountant may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. Relationships that bias or unduly influence the professional judgment of the professional accountant should be avoided."*

As per Section 100.1 *"A professional accountant is required to comply with the fundamental principles of Integrity, Objectivity, Professional competence and due care, Confidentiality & Professional behaviour."*

As per Section 100.5 *"The circumstances in which professional accountants operate may give rise to specific threats to compliance with the fundamental principles. It is impossible to define every situation that creates such threats and specify the appropriate mitigating action. In addition, the nature of engagements and work assignments may differ, and consequently different threats may exist, requiring the application of different safeguards. A conceptual framework that requires a professional accountant to identify, evaluate and address threats to compliance with the fundamental principles, rather than merely comply with a set of specific rules which may be arbitrary, is, therefore, in the public interest. This Code provides a framework to assist a professional accountant to identify, evaluate and respond to threats to compliance with the fundamental principles."*

Section 100.5 *Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances. Many threats fall into the following categories:*

- (a) Self-interest threats, which may occur as a result of the financial or other interests of a professional accountant or of a relative* ;*

[PPR/P/44/2014-DD/25/INF/14 DC/169/2018]

- (b) *Self-review threats, which may occur when a previous judgment needs to be re- evaluated by the professional accountant responsible for that judgment.*
- (c) *Advocacy threats, which may occur when a professional accountant promotes a position or opinion to the point that subsequent objectivity may be compromised.*
- (d) *Familiarity threats, which may occur when, because of a relationship, a professional accountant becomes too sympathetic to the interests of others; and*
- (e) *Intimidation threats, which may occur when a professional accountant may be deterred from acting objectively by threats, actual or perceived.*

7.9 The Committee noted that in the current case, there are numerous instances on record establishing that the Respondent had indirect control over the entities with which he had business relations. Further, in the case of the Trust, which was getting donations from MCX, it was observed by the committee that the Respondent had given acknowledgement receipts on behalf of the trust.

7.10 Accordingly, the Committee ~~hold~~ ^{held} the Respondent is guilty of professional misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION

8. In view of the above findings stated in above paras vis a vis material on record, the Committee gives its charge wise findings as under:

Charges (para ref.)	Findings (para ref.)	Decision of the Committee
1 (i)	6 to 6.11	Guilty - Item (1) of Part II of the Second Schedule
1 (ii)	7 to 7.10	Guilty - Item (7) of Part I and Item (1) of Part II of the Second Schedule

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9. The Committee, accordingly, in its considered opinion hold the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(CA. (Dr.) DEBASHIS MITRA)

PRESIDING OFFICER

Sd/-

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

GOVERNMENT NOMINEE

Sd/-

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

GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)

MEMBER

Sd/-

(CA. COTHA S SRINIVAS)

MEMBER

DATE: 11.02.2023

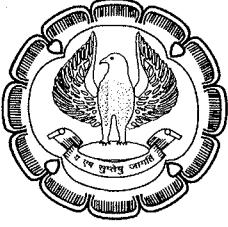
PLACE: New Delhi

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Certified to be true copy

विश्व मध्य सिन्धु / Vishwas Nath Thandi
कार्यवाही अधिकारी / Executive Officer
अनुशासनसमक निदेशक / Disciplinary Director
इण्डियन ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आर्गुमेंटेशन भवन, विश्व मध्य, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032



CA. Mukesh P. Shah (033862), Mumbai In Re:



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

[PPR/P/44/2014-DD/76/INF/14-DC/769/2018]

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.

[PPR/P/44/2014-DD/76/INF/14-DC/769/2018]

In the matter of:

CA. Mukesh P. Shah (033862), Mumbai in Re:

M/s Mukesh P. Shah & Co.

Chartered Accountants,

602, 6th Floor, Express Chamber,

Opp. Natraj Studio Zone-3,

A.K. Road, Andheri (East),

Mumbai-400 069

.....Respondent

MEMBERS PRESENT:

1. **CA. Ranjeet Kumar Agarwal, Presiding Officer** (Present in person)
2. **Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee** (Present in person)
3. **Shri Arun Kumar, I.A.S. (Retd.), Government Nominee** (Present in person)
4. **CA. Sanjay Kumar Agarwal, Member** (Present in person)
5. **CA. Sridhar Muppala, Member** (Present through video-conferencing mode)

DATE OF MEETING : 28.03.2023 (Through Physical/ Video Conferencing Mode)

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 11.02.2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Mukesh P. Shah (033862)**, (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.



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

[PPR/P/44/2014-DD/76/INF/14-DC/769/2018]

2. The Committee noted that the charges against the Respondent were as follows:
 - 2.1 That the Respondent, inspite of the fact that there were various firms, in which he was the director or an interested party, which were in turn holding business relations with the MCX and were receiving payments for services, donations etc, the Respondent conducted audits of various companies as provided in the Report (Page A-165 of the Prima-facie opinion).
 - 2.2 The Respondent was associated with various entities that had business connections with MCX and/or had received fees for the services rendered to MCX.
3. The Committee noted that the Respondent was present through Video Conferencing Mode through BKC office of ICAI, Mumbai. The Committee noted that the Respondent relied upon his written submission dated 9th March 2023 and supplementary written submissions dated 24th March, 2023.
4. The Committee noted that the Respondent in his written and oral submissions before it, had, inter-alia, mentioned that he was not the auditor of MCX rather was the tax auditor of MCX. He further submitted that no amount or benefit was received by him from the respective parties. He, apart from his submission earlier made, emphasised on the fact that Mumbai Metropolitan Court had passed judicial strictures on the quality of the report of PWC which is the basis of the instant information case against him. He further added that FMC and MCX have rejected the entire PWC report in toto.
5. The Committee, while considering his oral and written submissions on record, noted that it is apparent that the Respondent, despite being the auditor of MCX, was also connected with entities having business relationships with MCX, as there were numerous instances on record establishing that the Respondent had indirect control over the entities with which he had business relations. The Committee noted that it has already been established that the Respondent was negligent while performing his professional assignments and failed to exercise his professional scepticism.
6. Accordingly, the Committee, looking into the gravity of the charge *vis-a-vis* submissions of the Respondent, decided to give a reasonable punishment to the Respondent in the instant matter.



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7. Therefore, keeping in view the facts and circumstances of the case, material on record, and submissions of the Respondent before it, the Committee ordered that the name of the Respondent, i.e. CA. Mukesh P. Shah (033862), be removed from the Register of members for a period of 03 (three) months. This punishment shall run concurrently with the punishment given to him in cases no. [PR-214/13-DD/207/2013, PR-212/13-DD/222/13 (clubbed) and PR-215/13-DD/216/13 (clubbed), DD/253/13 (clubbed)/DC/431/156] and [PR 228/13-DD/224/2013/DC/494/2016].

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

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

sd/-

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

sd/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

sd/-

(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 13th MAY, 2023
PLACE: NEW DELHI

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