

[PR/G/236/18-DD/290/2018-DC/1263/2020]

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. : [PR/G/236/18-DD/290/2018-DC/1263/2020]

In the matter of:

Shri Ajay Kumar Neema,
Chief Engineer (HR & A)
MP Power Generating Company Ltd,
Block no. 9,
Shakti Bhavan, Rampur
Jabalpur – 482008

....Complainant

Versus

CA. Anil Kumar Bangad, (M.No.074337)
Proprietor
M/s A K Bangad & Company
11-B, S301, Harishchandra Apts,
Mogul Lane,
Mahim,
Mumbai – 400016

.....Respondent

MEMBERS PRESENT:

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

DATE OF FINAL HEARING : 16.01.2023
PLACE OF FINAL HEARING : ICAI Bhawan, Delhi

[PRR/9239/18-DIR/299/2018-DCT/263/2020]

PARTIES PRESENT :

Complainant's Representatives : Shri Navneet Kumar Gupta and Shri S D Upadhyay

Counsel for Respondent : Shri Pankaj Shah

Respondent : CA. Anil Kumar Bangad

CHARGES IN BRIEF:-

- 1 The Committee noted that in the present case, the Respondent was held Prima-facie Guilty by the Director (Discipline) of Professional and/or Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of the First Schedule of the Chartered Accountants Act, 1949, read with Section 22 of said Act on the charge that the Respondent had issued the annual turnover certificate to two persons, viz., Mr. Raj Kumar Nigam and Mr. Nagnedra Kumar Nigam for the financial year 2014-15 to 2016-17 without checking supporting documents.

BRIEF FACTS OF THE PROCEEDINGS:

- 2 The Committee noted that in the hearing held on 7th December 2022 Shri S.K. Shukla, Chief Engineer (HR&A) on behalf of Complainant were present through Video Conferencing Mode. The Respondent was also present through video conferencing mode.
- 2.1 At the outset, the Committee enquired from the parties that since, the composition of the Committee had changed further to the previous hearing, as to whether he wished to have a de-novo hearing. On the same, the Respondent opted for a de-novo hearing. The Committee noted that the Complainant had also not objected on the same, hence the Committee acceded to his request. After the due formalities of the meeting are over, the Respondent requests for an adjournment as he wants to appoint counsel to defend his case. The Committee, looking into the same, acceded to the request made by the Respondent.



[PR/G/236/18-DD/200/2018-DC/1264/2020]

3. The Committee noted that in the hearing held on 29th December 2022 the Respondent and his Counsel CA. Pankaj Shah were present through video conferencing mode. The Committee noted that Shri S.K. Shukla, Chief Engineer (HR&A) was present on behalf of the Complainant Company through video conferencing mode.
- 3.1 At the outset, the Committee noted that the Complainant is a Company, and hence a Board resolution was required to be filed at the time of registration of the complaint but the same was not filed by the Complainant Company. The Committee posed a question to the Respondent/ his Counsel and asked them whether they had any objections on this technical issue; on the same, they submitted that they had no objections with regards to technical point observed by the Committee in relation to the registration of a complaint without Board resolution. Thereafter, the Counsel of the Respondent argued on the merits of the case and presented his line of defence.
- 3.2 The Committee, after considering the submissions of both parties, directed the Complainant to submit the following documents:
 - a. Self attested visible copies of all certificates alleged to have been issued by the Respondent in the instant matter.
- 4 On the day of the final hearing on 16th January 2023, the Committee noted that the on behalf of Complainant Department Shri S. D Upadhyay, Joint Secretary, and Shri Navneet Kumar Gupta, Joint Director (F & A) were present through video conferencing mode. The Respondent alongwith CA. Pankaj Shah were also present through Video Conferencing mode.
- 4.1 Thereafter, the Committee noted that the Complainant vide his email dated 13th January, 2023 had submitted the documents sought from him in the previous hearing. The Committee on perusal of these documents noted that the same were not clear. One of the Complainant's representative, in this regard, submitted that they are in possession of the original copies of the same. When the

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Committee asked them to show the same on screen, they were not able to properly show these certificates on screen.

4.2 The Committee noted that in this case, submissions of both the parties are already on record and hence decided to conclude the hearing by reserving its judgement in the instant matter by directing the Complainant to submit the following documents within the next 7 days:

- a. Clear scanned copy of certificates issued by the Respondent that were submitted by him to the Complainant Company(in PDF format).

5 Thereafter, this matter was placed in the hearing held on 25th January,2023 wherein same members were present. The Committee noted that the Complainant vide his email dated 16th January,2023 had submitted the desired documents. Keeping in view the facts and circumstances of the case, material on record and submissions of the parties, the Committee passed its judgement.

FINDINGS OF THE COMMITTEE

- 6 The Committee noted in the instant case the Respondent had issued the annual turnover certificates to Mr. Raj Kumar Nigam and Mr. Nagnedra Kumar Nigam for the F.Y 2014-15 to 2016-17. These certificates were submitted before the tendering authority, i.e. Madhya Pradesh Power Generating Company Limited, Jabalpur to procure a contract.
- 7 The Committee noted that, with respect to Mr. Raj Kumar Nigam three certificates signed by the Respondent are on record. The Respondent/ his Counsel in this regard had submitted that initially the Respondent issued a certificate dated 2nd November 2017 (page C-13/ C-35 of the Prima-facie Opinion). Later on, he issued certificate dated 16th January 2018 (page C-11 of the Prima-facie Opinion) as confirmation of original certificate. He further submitted that certificate dated 2nd November 2017 (page C-27 of the Prima-facie Opinion) is a forged document and the same was neither issued by him nor submitted by his client.

(PR/G/230/18 PD/230/2018 DC/1263/2020)

- 8 The Committee, on perusal of the certificate, noted that the Turnover as per Income Tax in these certificates is as under:

Mr. Raj Kumar Nigam Prop. M/s Prince Enterprises

F.Y.	Forged according to Respondent	Actual according to Respondent	
	2 nd November 2017 (C-27)	2 nd November 2017 (C-13/C-35)	16 th January 2018 (C-11)
2014-15	61,64,063.00	93,57,740.00	93,57,740.00
2015-16	53,56,886.00	80,68,762.00	80,68,762.00
2016-17	0	61,28,535.00	61,28,535.00
Total	1,15,20,949.00	2,35,55,037.00	2,35,55,037.00

- 9 The Committee noted that with respect to Mr. Nagendra Kumar Nigam three certificates signed by the Respondent are on record. The Respondent/ his Counsel in this regard had submitted that initially the Respondent issued a certificate dated 12th November 2017 (page C-26 of the Prima-facie Opinion). Later on, he issued certificate dated 16th January 2018 (page C-12 of the Prima-facie Opinion) as confirmation of original certificate. He further submitted that the certificate dated 12th November 2017 (page C-15 of the Prima-facie Opinion) is a forged document and that it was neither issued by him nor submitted by his client.
10. The Committee, on perusal of the certificate, noted that the Turnover as per Income Tax in these certificates is as under:

Mr. Nagendra Kumar Nigam Prop. M/s N.K. Construction

F.Y.	Forged according to Respondent	Actual according to Respondent	
	12 th November 2017 (C-15)	12 th November 2017 (C-26)	16 th January 2018 (C-12)
2014-15	20,73,924.00	31,73,924.00	31,73,924.00
2015-16	13,16,234.00	40,01,234.00	40,01,234.00
2016-17	18,87,385.00	18,87,385.00	18,87,385.00

Handwritten signature/initials

[P390/236/18-01/200/2018-DC/1263/2020]

Total	52,77,543.00	90,62,543.00	90,62,543.00
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11. The Committee noted that at the hearing stage, Counsel for the Respondent stated that the alleged certificates are forged certificates because they were neither issued by the Respondent nor were submitted by his client to the Complainant Company. The Counsel also stated that a police complaint had been filed, and a copy of the same was enclosed with the Respondent's reply, which was submitted via email on 22nd December 2022. On perusal of the same, the Committee noted that the police complaint was filed on 10th December 2022 and that too by the clients of the Respondent viz., Mr. Raj Kumar Nigam and Mr. Nagendra Kumar Nigam (Pages 59 and 62 of the Respondent's reply dated 22nd December 2022). The Committee noted that despite serious charges levelled against him regarding misusing/forging of his signature, the Respondent chose to file police complaint through his client only. The Committee noted that the Respondent failed to give any justification as to why he had not filed complaint directly to the Jurisdictional Police station. This also proves the Respondent's influence and his connivance with his clients.
12. The Committee noted that a police complaint was filed in December, 2022 that too after the formation of Prima Facie Opinion. It is pertinent to notes hearings in the case had already been initiated by the Disciplinary Committee.
13. On the specific question of the Committee as to why the Respondent had not filed any FIR against the client or any other person in 2018 when he came to know about forged certificates having his signature, the Respondent failed to provide reasonable justification.
14. The Committee also noted that the Complainant Company had sought various clarifications from the Respondent vide different letters issued on 15th December 2017, 12th February 2018, 11th April 2018, 21st April 2018 and 5th May 2018 (page C-2 of the prima-facie opinion) for confirming the authenticity of Annual turnover certificates issued by him. The Committee on perusal of the letter dated 15th June 2018 of the Complainant (page C-5 of the prima-facie opinion) noted that the

Complainant again requested the Respondent to submit his comments relating to verification/ confirmation in Yes/ NO. The Committee noted that the Respondent, despite serious allegations levelled against him, had merely replied once to the Complainant and that too by enclosing certificates and not replying anything on merits.

15. The Committee noted the casual approach of the Respondent in dealing with the matter, as the Respondent at prima facie stage despite due delivery of notice in 2018 had not submitted his written statement. The Committee further noted that during the first hearing also, the Respondent provided the answer, very casually, to the question put forth by the Committee.
16. The Committee also noted that the Respondent failed to submit any handwriting expert opinions to prove bonafide in the instant case. The Committee also noted that Form 16A of both assesses in respect of whom the certificates have been issued by the Respondent are not available for all quarters of the year and accordingly does not support the figures of financial years (2014-15 to 2016-17) (Page C-16 to C-25 and Page C-28 to C-34 of prima-facie opinion). The Respondent failed to submit a copy of the same to prove his bonafide in the case.
17. The Committee on the merits of the case, noted that letterhead and other details such as stamp on certificates issued are identical. Further, the signature on the alleged certificate marked on page C-27 of the prima-facie opinion, claimed to have been forged by the Respondent, is similar when compared with the signatures of the Respondent on other certificates claimed by him as original and issued by him.
18. The Committee further noted that the Respondent was required to be more vigilant while performing his professional duties by certification which bears his signatures, he becomes liable and responsible for its factual accuracy. In this regard, it is noted that point 2.2 of "Guidance Note on Audit Reports and Certificates for Special Purposes" provides as under:



[PR/G/230/18-DI/200/2018-DC/263/2020]

"..... when a reporting auditor issues a certificate, he is responsible for the factual accuracy of what is stated therein."

19. The Committee, in absence of any concrete evidence to prove the bonafide on the part of the Respondent vis-à-vis casual approach of the Respondent in dealing with the matter and on perusal of documents on record, hold the Respondent guilty of the charges alleged in the prima-facie opinion.

CONCLUSION

20. In view of the above findings stated in above paras vis a vis material on record, the Committee, in its considered opinion hold the Respondent is **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of Said Act with respect to charge mentioned in para 1 above.

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

प्रमाणित एवं प्रमाणित/ Certified true copy
CA. Sunda Kumar
सहायक सचिव, Assistant Secretary
अनुशासक निदेशक, Chartered Accountants
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
संस्थान का पता, Office No. 100, Block 1, 10032
ICAI Bhawan, Vasant Nagar, Saket, New Delhi-110032



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

[PR/G/236/18-DD/290/2018-DC/1263/2020]

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

[PR/G/236/18-DD/290/2018-DC/1263/2020]

In the matter of:

Shri Ajay Kumar Neema,
Chief Engineer (HR & A)
MP Power Generating Company Ltd,
Block no. 9,
Shakti Bhavan, Rampur
Jabalpur – 482008

.... **Complainant**

-Vs-

CA. Anil Kumar Bangad, (M.No.074337)
Proprietor
M/s A K Bangad & Company
11-B, S301, Harishchandra Apts,
Mogul Lane,
Mahim,
Mumbai – 400016

.... **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 in person)

DATE OF MEETING : 16.03.2023 (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. Anil Kumar Bangad, (M.No.074337)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of



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[PR/G/236/18-DD/290/2018-DC/1263/2020]

Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the Act.

2. The Committee noted that the charge against the Respondent was that the Respondent had issued the annual turnover certificate to two persons, viz., Mr. Raj Kumar Nigam and Mr. Nagnedra Kumar Nigam for the financial year 2014-15 to 2016-17 without checking supporting documents.

3. The Committee noted that the Respondent was present through video conferencing mode from his place. The Respondent relied on his written submissions dated 25th February 2023, and submitted his detailed submissions, mentioning as under:

- a. That forged certificate was not submitted by him. Further, his client(s) informed him that the forged certificate(s) were not submitted by them to the Complainant Department.
- b. That the alleged certificate was not legible and signatures bearing on such certificates appeared to be cut and pasted.
- c. His clients in their respective affidavits confirmed that alleged certificates were not given to them by the Respondent.
- d. The filings of complaints in multiple police stations would have initiated multiplicity of proceedings; therefore, with his affidavit, a complaint was filed by his clients.
- e. The forensic opinion can be taken only from original documents which were in the possession of the Complainant only.
- f. That the alleged turnover certificates were issued by him on the basis of the ITR.
- g. That the Affidavits, police complaint by the clients, and ITR forms from Income Tax portal, and his correspondence with the Complainant are concrete evidences on his part to prove bona-fide.
- h. He, due to his medical condition (Slip-disc problem) was unable to reply to various correspondences of the Complainant Department as well as those of the Disciplinary Directorate at the time of submissions of his written statement.
- i. He further requests the Committee to take a lenient view in his matter.

4. The Committee noted the oral and written submissions of the Respondent on record. The Committee observed that the Complainant Department failed to provide legible copies of the alleged certificates. The Committee noted that the signature on the alleged certificate, claimed to have been forged by the Respondent, is similar when compared with the signatures of the



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Respondent on other certificates claimed by him as original and issued by him. Further, despite charges levelled against him regarding misusing/forging of his signature, the Respondent chose to file a police complaint through his client only. The Committee was of considered view that the Respondent was failed to exercise requisite vigilance in securing his bonafide and genuineness.

5. Accordingly, the Committee, looking into the gravity of the charge *vis-a-vis* submissions of the Respondent before it decided to give reasonable punishment to the Respondent.

6. Therefore, keeping in view the facts and circumstances of the case, the material on record, and the submissions of the Respondent before it, the Committee ordered that the Respondent CA. Anil Kumar Bangad, (M.No.074337), be reprimanded along with fine of Rs.25,000/- (Rupees Twenty-Five Thousand Only).

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

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

[Signature]

अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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