

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

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

Order No. 002/2024

Date: 05.01.2024

ORDER

In the matter of CA Anil Chauhan under Section 132(4) of the Companies Act, 2013.

1. This Order disposes of the Show Cause Notice ('SCN' hereafter) no. NF-23/11/2023 dated 22nd September 2023, issued to CA Anil Chauhan (Membership no: 166286), proprietor of M/s Anil Chauhan & Associates, Mumbai (Firm registration no: 0140786W), who is a member of Institute of Chartered Accountants of India ('ICAI' hereafter) and the Engagement Partner ('EP' hereafter) for the Statutory Audit of Seya Industries Limited ('SIL' or 'the company' hereafter) for the Financial Years ('FY' hereafter) 2018-19 and 2019-20.
2. This Order is divided into the following sections:
 - A. Executive Summary
 - B. Introduction and Background
 - C. Major lapses on the part of the EP
 - D. Articles of Charges of Professional Misconduct by the EP
 - E. Penalty and Sanctions

A. EXECUTIVE SUMMARY

3. The National Financial Reporting Authority ('NFRA' hereafter) initiated investigation into the professional conduct of statutory auditors of Seya Industries Limited, Mumbai, for the FYs 2018-19 and 2019-20 under Section 132(4) of the Companies Act, 2013 ('Act' hereafter). This was pursuant to information received from the Securities and Exchange Board of India ('SEBI' hereafter) dated 28.03.2023 about the non-compliance with the accounting standards by the company; misreporting in the financial statements; and non-cooperation by the auditor Anil Chauhan & Associates.
4. To investigate the professional misconduct, the audit files and some other information were called for from the EP. Despite repeated reminders, the EP did not submit the requisite documents and information. Thus, NFRA concluded that the EP either had no such documents with him or was unwilling to cooperate with NFRA in discharge of its statutory responsibility under section 132 of the Companies Act. On 22.09.23, a show cause notice for non-compliance was issued to the EP, which was not responded to.
5. This Order concludes that the failure of the EP to cooperate with NFRA is a professional misconduct under section 132(4) of the Companies Act 2013, read with clause 2 of part-III of first schedule of The Chartered Accountants Act, 1949, i.e. failure to supply the information called for, or failure to comply with the requirements asked for.
6. Based on the proceedings under section 132 (4) of the Act and after giving multiple opportunities to the EP to present his case, we find the EP guilty of professional misconduct in his failure to

comply with the requirements of provisions of the Act, Code of Ethics (2009) ('the Code' hereafter), Standards on Auditing ('SA' hereafter), and gross negligence in maintaining of the audit files and impose through this Order the following monetary penalties and sanctions, that will take effect after 30 days from the date of this Order:

Imposition of a monetary penalty of Rupees Twenty Lakhs upon CA Anil Chauhan, the Engagement Partner. In addition, CA Anil Chauhan and the audit firm M/s Anil Chauhan & Associates (FRN: 0140786W) are debarred for Ten years from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.

B. INTRODUCTION AND BACKGROUND

7. The National Financial Reporting Authority is a statutory authority set up u/s 132 of the Act to monitor implementation and enforce compliance of the auditing and accounting standards and to oversee the quality of service of the professions associated with ensuring compliance with such standards. NFRA is empowered u/s 132(4) of the Act to investigate the prescribed classes of companies and impose penalty for professional or other misconduct of the individual members or firms of chartered accountants.
8. The statutory auditors, both individual and firm of chartered accountants, are appointed by the members of a company u/s 139 of the Act. The statutory auditors, including the Engagement Partners and the Engagement team that conduct the audit, are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the SAs, including the Standards on Quality Control ('SQC' hereafter) and the Code of Ethics, the violation of which constitutes professional misconduct, and is punishable with penalty prescribed u/s 132(4)(c) of the Act.
9. Seya Industries Limited (SIL) was incorporated in 1990 and listed at Bombay Stock Exchange in the financial year 1993-94 and at National Stock Exchange in the financial year 2019-20, and therefore falls under NFRA domain¹. During the FYs 2018-19 and 2019-20, SIL was in the business of manufacturing of pharmaceutical / personal & health / printing inks & paints and agrochemicals care products etc. As disclosed by the Company in its annual report, the company prepared its Financial Statements ('FS' hereafter) in accordance with Indian Accounting Standards ('Ind AS' hereafter) as notified by Ministry of Corporate Affairs.
10. NFRA took up *sou motu* investigation into the role of the statutory auditors of Seya Industries Limited u/s 132(4) of the Act after receipt of a letter dated 28.03.2023 from SEBI about non-compliance with the accounting standards and misreporting in the financial statements by the company, and non-cooperation by the auditor. Some serious issues had been raised by SEBI in its Order dated 20.3.2023, which observed that the company had inflated its purchase and sales in the FYs 2018-19 to 2020-21 through name lenders, did not disclose related party relationships and their transactions, and siphoned off funds through undisclosed related parties. SEBI also noted that the company did not provide for interest costs on NPA loans.
11. Considering the gravity of the case and to investigate into any professional misconduct, NFRA vide letter dated 27.04.2023, advised the EP to submit the audit files including other requisite documents relating to the statutory audit of Seya Industries Limited for the FYs 2018-19 and 2019-20 within 15 days' time. The communication was sent to the EP through speed-post and e-mail and was duly delivered, however the EP did not respond. Another opportunity for submission

¹ Vide Rule 3(1)(a) of National Financial Reporting Authority Rules, 2018.

of the same was given vide letter and email dated 23.05.2023, however the EP did not respond. A last opportunity, vide an email dated 30.06.2023, was provided to the EP, however the EP again did not respond.

12. On finding sufficient cause for action under section 132(4) of the Act, 2013 and Rule 11 of the NFRA Rules 2018, an SCN was issued to the EP through post and email on 22.09.2023, asking him to show cause why action should not be taken against him for being grossly negligent in the conduct of professional duties in the statutory audit of SIL for the FYs 2018-19 and 2019-20, and for non-cooperation with NFRA. The SCN charged the EP for:
 - a. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties as defined by clause 7 of Part I of the Second Schedule of the Chartered Accountants Act 1949.
 - b. Failure to supply the information called for, and non-compliance with the requests of NFRA as defined in clause 2 of Part-III of First Schedule of The Chartered Accountants Act, 1949.
13. The EP was advised to reply to the SCN by 22.10.2023, failing which, it would be construed to indicate that the EP had nothing to say in the matter and NFRA would proceed to decide the matter based on the materials on record. However, despite numerous opportunities, the EP did not respond to the SCN, nor did he avail the opportunity of personal hearing offered in the SCN. Accordingly, this Order is being issued based on the materials on record. The specific failures of the EP are discussed in section C of this Order.

C. MAJOR LAPSES ON THE PART OF THE EP

Failure to maintain Audit Files and to co-operate with NFRA

14. The EP was charged with failure to maintain the Audit Files as per the provisions of SA 230² for the statutory audit of SIL for the FYs 2018-19 and 2019-20, and to submit the requisite information, despite repeated communications from NFRA.
15. SA 230 states that audit documentation assists the engagement team to plan and perform the audit, and hold them accountable for their work. It also enables to conduct the external regulatory inspections (para 3). SA 230 requires an auditor to prepare audit documentation in timely manner, sufficient to enable an experienced auditor, having no previous connection with the audit, to understand: (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements; (b) The results of the audit procedures performed, and the audit evidence obtained; and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions (para 7 & 8). The auditor is also required to assemble the audit documentation in an audit file within 60 days after the date of the Auditor's Report (para 14). SQC 1 requires an audit firm to establish policies and procedures for the retention of audit documentation for at least seven years from the date of Auditor's Report to enable *inter alia* the external parties to access and review for quality control or other purposes (para 82 to 84), and the Audit Files are the property of Audit Firm (para 85).

Under Section 132(4) of the Companies Act 2013, professional misconduct is as defined in The Chartered Accountants Act, 1949. Clause 2 of part-III of first schedule of The Chartered

² SA 230 'Audit Documentation'

Accountants Act, 1949 states that failure to supply the information called for, or failure to comply with the requirements asked for, is a professional misconduct.

16. The EP failed to submit the audit files and other information despite repeated requests by NFRA. He also failed to respond to the charge of non-maintaining the audit files as levelled in the SCN. By not cooperating, the EP has prevented NFRA from carrying out its legal mandate to exercise oversight of auditing functions performed by the auditors and investigate cases of professional misconduct under section 132 of the Act, 2013 in order to protect public interest and the interests of investors, creditors and others associated with the companies or bodies corporate governed under Rule 3 of NFRA Rules, 2018.
17. Therefore, the persistent failure of the EP to submit any documents and his failure in responding to the communications from NFRA leads us to conclude that either the EP did not maintain any such documents, which is a violation of SA 230, or he is unwilling to cooperate with NFRA in discharging its statutory authority and responsibility under section 132 (4) of the Act, which is a professional misconduct.
18. We note that in the case of *R.C. Dutta vs. Kailash C. Mishra*,³ a Chartered Accountant was held guilty of professional misconduct under Clause (7) of Part I of Second Schedule and other misconduct under section 22 of the Chartered Accountants Act 1949, for his failure to appear before Tax Authorities. CA *Gora Chand Mukherjee*⁴ was also held guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949 for delay in submission of information to RBI and for not submitting appropriate information.
19. At the International level also, such conduct is viewed seriously. The Public Company Accounting Oversight Board (PCAOB), the USA Audit Regulator, have sanctioned firms/individual Certified Public Accountants (CPAs) for non-cooperation with the regulator, including revocation of license. Some such instances are listed below:
 - i. In the matter of Crowe Horwath (HK) CPA Limited⁵, PCAOB censured the audit firm and revoked its registration for non-cooperation with its investigation, by failing to comply with Demand requiring production of documents, including audit work papers.
 - ii. In the matter of Li and Company, P. C.⁶, PCAOB censured and revoked its registration for non-cooperation with a Board investigation and produce certain documents and information.
 - iii. In the matter of J. Crane CPA, P.C. and James Crane⁷, PCAOB permanently revoked the registration of the firm and permanently barred James Crane from being an associated person of a registered public accounting firm for their non-cooperation with a Board inspection, and for Crane, P.C.'s failures to file an annual report and pay an annual fee.
20. Absence of audit documentation or failure to submit the Audit File to NFRA, is a clear evidence that the EP failed to obtain reasonable assurance about whether the FS as a whole were free from material misstatement and that the Auditor's opinion issued through the Independent Auditor's Report dated 14.05.2019 and 31.07.2020 for the FYs 2018-19 and 2019-20 respectively, was without any basis and hence unreliable and invalid. Accordingly, we take a serious view of the

³ R.C. Dutta vs. Kailash C. Mishra - Page 143 Vol.IX-1-21(6) of Disciplinary cases, the Council's decision dated 5th January, 2005 and Judgement of High Court of dated 1st March, 2007

⁴ Gora Chand Mukherjee in Re:- [PPR/P/10/E/2007/DD/6/E/ 81NF/08/DC/94/2010] Judgement delivered on 15th December 2016

⁵ PCAOB Release No. 105-2017-031 dated 25.07.2017.

⁶ PCAOB Release No. 105-2016-022 dated 14.06.2016.

⁷ PCAOB Release No. 105-2011-001 dated 19.01.2011.

failure of the EP to respond to NFRA's repeated communications and conclude that the EP by not responding to the proceedings undertaken by NFRA, has violated Section 132 (4) of the Act, 2013, which is a 'professional or other misconduct' in terms of Section 132(4)(c) of the Act, 2013, read with Clause (2) of Part III of Schedule I of the Chartered Accountants Act, 1949.

D. Articles of Charges of Professional Misconduct by the EP

21. Given the above-mentioned actions and omissions, it is established that CA Anil Chauhan committed professional misconduct by not submitting the Audit Files and related documentation to NFRA and by not responding to the SCN issued by NFRA under Section 132 (4) of the Act. We conclude that the following failures on the part of CA Anil Chauhan as contained under the Articles of Charges in the SCN stand established:
 - i. Failure to exercise due diligence and being grossly negligent in the conduct of professional duties as defined by clause 7 of Part I of the Second Schedule of the Chartered Accountants Act 1949 because of the lapses and omissions as explained and proved in parts C above.
 - ii. Failure to supply the information called for, and non-compliance with the requests of NFRA, as defined in clause 2 of Part-III of First Schedule of The Chartered Accountants Act, 1949 because the EP did not co-operate with NFRA as explained and proved in parts B & C above.

E. Penalty and Sanctions

22. It is the duty of an auditor to conduct the audit with professional skepticism and due diligence and report his opinion in an unbiased manner. Statutory audits provide useful information to the stakeholders and public, based on which they make their decisions on their investments or do transactions with the public interest entity⁸.
23. Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The seriousness with which proven cases of professional misconduct are to be viewed, is evident from the fact that a minimum punishment is laid down by the law.
24. As detailed in the preceding paragraphs of this Order, there was complete non-cooperation by the EP with NFRA, which establishes his professional misconduct.
25. Section 132(4)(c) of the Companies Act 2013 provides that National Financial Reporting Authority shall, where professional or other misconduct is proved, have the power to make order for—
 - (A) imposing penalty of— (I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and (II) not less than five lakh rupees, but which may extend to ten times of the fees received, in case of firms.
 - (B) debaring the member or the firm from—(I) being appointed as an auditor or internal auditor or undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate; or (II) performing any valuation as provided under section 247, for a minimum period of six months or such higher period not exceeding ten years as may be determined by the National Financial Reporting Authority.

⁸ Public interest entity as defined in Rule 3 of NFRA Rules 2018

26. We note that the firm M/s Anil Chauhan & Associates, Mumbai is a proprietary concern of the EP. As per the information contained in the financial statements of SIL for the FYs 2018-19 and 2019-20, the EP was paid [REDACTED] for each financial year for the conduct of statutory audit.
27. Considering the aforementioned proved professional misconduct by the EP and considering the nature of the violations, we in exercise of powers under section 132(4)(c) of the Companies Act, 2013, order:
- Imposition of a monetary penalty of Rs Twenty Lakhs on the EP, CA Anil Chauhan, proprietor of M/s Anil Chauhan & Associates.
 - Debarment of CA Anil Chauhan and the audit firm M/s Anil Chauhan & Associates (FRN: 0140786W), for Ten Years from being appointed as an auditor or internal auditor or from undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate.
28. This order will become effective after 30 days from the date of issue of this Order.

Sd/-

(Dr. Ajay Bhushan Prasad Pandey)

Chairperson

Sd/-

(Dr. Praveen Kumar Tiwari)

Full-Time Member

Sd/-

(Ms. Smita Jhingran)

Full-Time Member

Authorised for issue by the National Financial Reporting Authority,

Date: 05.01.2024

Place: New Delhi


(Vidhu Sood)

Secretary

To,

CA Anil Chauhan (MRN. 166286)

C/o Anil Chauhan & Associates (FRN. 0140786W)

Chauhan Bhawan, Plot No. 77, Kherwadi, Bandra-East, Mumbai - 400051

Email – ca.anilchauhan77@gmail.com

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

Copy To: -

- Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
- Securities and Exchange Board of India, Mumbai.
- Secretary, Institute of Chartered Accountants of India, New Delhi.
- Seya Industries Limited
- IT-Team, NFRA for uploading the order on the website of NFRA.