भारत सरकार / Government of India
राष्ट्रीय वित्तीय रिपोर्टिंग प्राधिकरण / National Financial Reporting Authority
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7th Floor, Hindustan Times House,
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सातवीं मंजिल, हिंदुस्तान टाइम्स हाउस,
कस्तूरबा गांधी मार्ग, नई दिल्ली

मिसिल संख्या : NF-23/14/2022 दिनांक: 12.04.2023

ORDER

In the matter of M/s ASRMP & Co., CA A. S. Sundaresha, CA Madhusudan U A, and CA Pranaav G. Ambekar, under Section 132(4) of the Companies Act 2013.

1 This Order disposes of the Show Cause Notice ('SCN' hereafter) number NF-23/14/2022 dated 15th November 2022, issued to M/s ASRMP & Co., Firm No: 018350S, Statutory Auditor ('Firm' hereafter) and CA A. S. Sundaresha, ICAI Membership no- 019728 ('EP' hereafter), CA Madhusudan U A, ICAI Membership no- 238953 ('Madhusudan' hereafter) & CA Pranaav G. Ambekar, ICAI Membership no- 240379 ('Pranaav' hereafter), (All are collectively called as 'Auditors' hereafter), who are members of the Institute of Chartered Accountants of India ('ICAI' hereafter) and were members of Engagement Team for the statutory audit of Coffee Day Global Limited ('CDGL' or 'the company' hereafter) for the Financial Year ('FY' hereafter) 2018-19.

2 This Order is divided into the following sections:

A. Executive Summary
B. Introduction & Background
C. Major lapses in the Audit
D. Other non-compliances with Laws and Standards
E. Omission and Commission by the Audit Firm
F. Points of Law raised by the Auditors.
G. Articles of Charges of Professional Misconduct by the Auditors
H. Additional Articles of Charges of Professional Misconduct by the Audit Firm
I. Penalty & Sanctions

A. EXECUTIVE SUMMARY

3 Pursuant to Securities and Exchange Board of India ('SEBI' hereafter) sharing in April 2022 its investigation regarding diversion of funds worth Rs 3,535 crores from seven subsidiary companies of Coffee Day Enterprises Limited ('CDEL' hereafter), a listed company, to Mysore Amalgamated Coffee Estate Limited ('MACEL' hereafter), an entity owned and controlled by the promoters of CDEL, NFRA initiated investigations into the professional conduct of the statutory auditors under Section 132(4) of the Companies Act 2013 ('Act' hereafter).

4 NFRA's investigations inter-alia revealed that the CDGL's Auditors for the FY 2018-19 failed to meet the relevant requirements of the Standards on Auditing ('SA' hereafter) and provisions of the Companies Act 2013 and also demonstrated a serious lack of competence. They failed to evaluate their potential conflict of interest and failed to maintain their independence from CDGL by having audit and non-audit relationships with a large number of Coffee Day Group companies and the promoters' family members ; made an attempt to deceive NFRA by adding more documents to as well as altering the documents in their audit file which amounted to tampering with the Audit File; failed to exercise professional judgement & skepticism during audit of the transactions of Rs 6,958.91 crores entered fraudulently with MACEL, which were also not disclosed in the Related Party Disclosures in their entirety; failed to report understatement of loan by Rs 222.50 crores fraudulently given to MACEL and evergreening of loans through structured circulation of funds among group companies; failed to report fraudulent diversion of Rs 130.55 crores to a related party M/s Classic Coffee Curing Works; performed audit in a perfunctory manner resulting in non-reporting of misstatement of Rs 132.37 crores in the consolidated financial statements. They failed to perform appropriate audit procedure to identify misstatement of Rs 69.77 crores in related party disclosure relating to purchase of coffee beans from MACEL. Thus, total material and pervasive misstatements amounted to Rs 7514.10 crores and in spite of that they falsely reported that the Financial Statements of CDGL for the FY 2018-19 gave a true and fair view. They also falsely reported that CDGL had an effective Internal Financial Control over Financial Reporting despite the complete absence of the same in CDGL.

5 Based on investigation and proceedings under section 132 (4) of the Companies Act and after giving them opportunity to present their case, NFRA found the Firm and its partners who performed the audit as Engagement Partners, guilty of professional misconduct and imposes through this Order the following monetary penalties and sanctions with effect from a period of 30 days from issuance of this Order:

a) Monetary penalty of Rs One Crore only upon M/s ASRMP & Co. In addition, this Firm is debarred for a period of two 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) Monetary penalty of Rs Ten Lakhs only upon CA A. S. Sundaresha. In addition, he is debarred for a period of five 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.

c) Monetary penalty of Rs Five Lakhs only upon CA Madhusudan U A. In addition, he is debarred for a period of five 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.

d) Monetary penalty of Rs Five Lakhs only upon CA Pranaav G. Ambekar. In addition, he is debarred for a period of five 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 & BACKGROUND

6 National Financial Reporting Authority ('NFRA' hereafter) is a statutory authority set up under section 132 of the Companies Act 2013 ('Act' hereafter) 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 has the powers of a civil court and is empowered under section 132 (4) of the Act to investigate for the prescribed classes of companies[1] the professional or other misconduct and impose penalty for proven professional or other misconduct of the individual members or firms of Chartered Accountants.

7 The Statutory Auditors, individuals and firm of Chartered Accountants, are appointed by the members of companies as per provision of section 139 of the Act. The Statutory Auditors, including the Engagement Partners ('EPs' hereafter) and the Engagement Team that conduct the Audit are bound by the duties and responsibilities prescribed in the Act, the rules made thereunder, the Standards on Auditing ('SA' hereafter), including the Standards on Quality Control ('SQC' hereafter) and the Code of Ethics, the violation of which constitutes professional or other misconduct, and is punishable with penalty prescribed under section 132 (4) (c) of the Act.

8 On receipt of information from SEBI vide letters dated 01.04.2022 & 29.04.2022 sharing its investigation regarding diversion of funds worth Rs 3,535 crores (as on 31-07-2019) from seven subsidiary companies of Coffee Day Enterprises Limited, a listed company, to Mysore Amalgamated Coffee Estate Limited, an entity owned and controlled by the promoters of CDEL, NFRA started investigation into the role of the statutory auditor under its powers in terms of section 132 (4) of the Companies Act 2013.

9 Late V. G. Siddhartha ('VGS' hereafter) was Chairman & Managing Director of CDEL till 29.07.2019. VGS and his family reportedly owned around 10,000 acres of coffee estates through various entities owned by VGS and operated and managed by MACEL, whose 91.75% shares were held by Late S.V. Gangaiah Hegde, father of VGS. Coffee Day Global Limited ('CDGL' hereafter) is a subsidiary company of CDEL and the sole buyer of coffee beans produced by MACEL.

10 As per the investigations made by the SEBI, the outstanding balance payable by MACEL to subsidiary companies of CDEL was Rs. 842 crores as on 31 March 2019, which had increased to Rs. 3,535 crores on 31 July 2019, detailed as under in Table-1:

[1] As defined in Rule 3 of the NFRA Rules 2018.

Table-1 (Rs in crores)

Sr. No	Names of the Subsidiary Companies of CDEL from which funds diverted to MACEL	Outstanding balance as on	
		March 31, 2019	July 31, 2019
1	Coffee Day Global Ltd (CDGL)	65	1,112
2	Tanglin Retail Reality Developments Pvt Ltd (TRRDPL)	789	1,050
3	Tanglin Developments Ltd (TDL)	-12	620
4	Giri Vidhyuth (India) Ltd. (GVIL)	-	370
5	Coffee Day Hotels and Resorts Pvt Ltd (CDH&RPL)	-	155
6	Coffee Day Trading Ltd (CDTL)	-	125
7	Coffee Day Econ Pvt Ltd (CDEPL)	-	103
Total		842	3,535

11 As per the Financial Statements ('FS' hereafter) of MACEL, Rs 3,535 crore was further transferred from MACEL to the personal accounts of VGS, his relatives and entities controlled by him and/or his family members, whose outstanding balances payable to MACEL were Rs 3,238.95 crores as on 31.03.2019. On examination of FS of MACEL, it transpired that MACEL did not have any business transactions with the 6 of the 7 subsidiary companies except CDGL. From FS of MACEL, it transpired that MACEL was used as a conduit to transfer funds from CDEL's subsidiaries companies to the personal accounts of VGS, his relatives and entities controlled by him and/or his family members, as loans and advances that were never returned to MACEL/CDEL.

12 The modus operandi of the alleged diversion of funds discovered by the SEBI during its investigation was that "VGS used to ask the Authorized Signatories to sign a bunch of cheques which were kept in his possession and used them as and when required". Such pre signed blank cheques of bank accounts of various Coffee Day Group companies were used for the diversion of funds.

13 CDGL, one of the 7 subsidiaries of CDEL, contributed the largest share of revenue and profits of CDEL, and is engaged in the business of retailing of coffee and other products under the brand name 'Coffee Day'; sale of coffee beans and other related products and services in respect of coffee vending machines; and selling coffee beans to domestic and overseas customers. Although an unlisted Public Company, CDGL had total equity of Rs 1,334.88 crores & borrowing/deposit of Rs 534.40 crores as on 31.03.2018 and revenue from operations of Rs 1,777.04 crores during FY 2017-18 and, thus falls under the jurisdiction of NFRA in terms of Rule 3 of NFRA Rules 2018 which includes unlisted Public Companies having paid-up capital of not less than rupees five hundred crores or having annual turnover of not less than rupees one thousand crores or having, in aggregate, outstanding loans, debentures and deposits of not less than rupees five hundred crores as on the 31st March of immediately preceding financial year.

14 NFRA called from the statutory auditor the Audit File of CDGL for Financial Year 2018-19 to examine the role of the auditor and for investigation under section 132(4)(b)(i) of the Act. Based on an examination of the Audit File and other materials on record, NFRA issued

a Show Cause Notice ('SCN' hereafter) to the Auditors on 15.11.2022 asking them to show cause by 15.12.2022, why the penal provisions of section 132(4)(c) of the Companies Act 2013 should not be invoked for professional misconduct of:

a) Failure to disclose a material fact known to them which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where the Statutory Auditors are concerned with that financial statement in a professional capacity.
b) Failure to report a material misstatement known to them to appear in a financial statement with which the Statutory Auditors are concerned in a professional capacity.
c) Failure to exercise due diligence and being grossly negligent in the conduct of professional duties.
d) Failure 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, and
e) Failure to invite attention to any material departure from the generally accepted procedures of audit applicable to the circumstances.

15 The Auditors sought an extension of time of 45 days for submitting response to SCN, which was allowed. The Firm vide letter dated 24.01.2023 submitted its reply to SCN. CA A. S. Sundaresha, CA Madhusudan U. A. and CA Pranaav G. Ambekar vide letters dated 30.01.2023 submitted that the reply of the firm may be considered as their reply and that they were not giving separate replies.

16 M/s ASRMP & Co. was the statutory auditor of CDGL for FY 2018-19. The Firm is in practice since 01.04.2018. The audit plan mentions that CA A. S. Sundaresha was 'Signing Partner'; and CA Madhusudan U A and CA Pranaav G. Ambekar were 'Engagement Partners'. The Financial Statements and Independent Auditor's Report have been signed by CA A. S. Sundaresha.

17 The SCN gave an opportunity of personal hearing to the Auditors, which they did not avail. Accordingly, this Order is based on examination of the facts of the matter, charges in the SCN, written replies of the Auditors and other materials available on record.

General submissions by the Auditors

18 The Auditors have submitted that Standards on Auditing are not reference material to decide on charges of professional misconduct against an auditor and are a guidance to an auditor to act professionally while arriving at an opinion and have referred to para 5, A47 and A52 of SA 200. We have gone through the same and find this argument as strange. We notice that the legal mandate to adhere to the Standards is clearly laid down in section 143(9) &143(10) of the Act[2]. Further, ICAI in its Implementation Guide on Reporting Standards issued in Nov 2010 had opined in response to question no-12 relating to the

[2] Section 143(9) of the Act provides that every auditor shall comply with the auditing standard. Further proviso to section 143(10) of the Act provides that until any auditing standards are notified, any standard or standards of auditing specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing standards.

Auditor's responsibility paragraph that "*A key assertion that is made in this paragraph is that the audit was conducted in accordance with the SAs. SA 200*[3]*, which in a way is the "parent standard" on auditing, prohibits the auditor from representing compliance with SAs in the auditor's report unless the auditor has complied with the requirements of this SA and all other SAs relevant to the audit. This is a very broad and onerous assertion for an auditor to make. If during a subsequent review of the audit process, it is found that some of the audit procedures detailed in the SAs were not in fact complied with, it may tantamount to the auditor making a deliberately false declaration in his report and the consequences for the auditor could be very serious indeed*". In this case, the Auditor in its Independent Auditor's Report dated 24.05.2019 has inter alia asserted that "***We conducted our audit in accordance with the Standards on Auditing specified under section 143(10) of the Act***". Thus, there is no scope for deviation from the SAs, the fundamental principles of which are contained in their Requirements section and are represented by use of "shall".

19 The Auditors have also mentioned that complete investigation report of SEBI has not been provided to them. In this regard, the relevant extracts of the SEBI report that were relied upon in the SCN, have been provided to the Auditors and thus there is no merit in this objection.

C. MAJOR LAPSES IN THE AUDIT

C.1 Acceptance of audit engagement disregarding Independence requirements

20 The Auditors were charged with non-compliance with requirements relating to independence of auditor as per SQC 1, SA 200 and SA 220[4]. CA A. S. Sundaresha's (signing partner) proprietorship firm had provided audit and non-audit services to 29 entities belonging to Coffee Day Group including its promoters. The audit firm of the signing partner's daughter (M/s Sundaresha & Associates) has provided audits as well as non-audit services to 27 entities of the Coffee Day Group. Further, her firm was actively participating in making audit presentation etc., on behalf of EP's firm and a partner of her firm represented as partner of EP's firm in the Audit Committee meeting of CDGL. All these audit firms operate from the same office address.

21 SA 200 provides Overall Objectives of the Independent Auditor and the Conduct of an Audit in accordance with Standards on Auditing. It requires the auditor to comply with relevant ethical requirements, including those pertaining to independence, relating to financial statements audit engagements. SQC 1 requires the Audit Firm to establish policies and procedures designed to provide it with reasonable assurance that the firm, its personnel and, where applicable, others subject to independence requirements (including experts contracted by the firm and network firm personnel), maintain independence where required by the Code of Ethics. SQC 1 further states, inter alia, that *"The firm should establish policies and procedures for the acceptance and continuance of client relationships and*

[3] SA 200, Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing

[4] SA 220, Quality Control for an Audit of Financial Statements.

specific engagements, designed to provide it with reasonable assurance that it will undertake or continue relationships and engagements only where it: (i) ------, (ii) ------ and (iii) Can comply with the ethical requirements".

22 SA 220 required the Engagement Partner to form a conclusion on compliance with independence requirements that apply to the audit engagement. In doing so, the Auditors were required to:

(i) Obtain relevant information from the firm and, where applicable, network firms, to identify and evaluate circumstances and relationships that create threats to independence;

(ii) Evaluate information on identified breaches, if any, of the firm's independence policies and procedures to determine whether they create a threat to independence for the audit engagement; and

(iii) Take appropriate action to eliminate such threats or reduce them to an acceptable level by applying safeguards, or, if considered appropriate, to withdraw from the audit engagement, where withdrawal is permitted by law or regulation. The engagement partner was required to promptly report to the firm any inability to resolve the matter for appropriate action.

23 In the Independent Auditor's Report dated 24.05.2019, the Auditors have reported that, "*We are independent of the company in accordance with the code of ethics issued by the Institute of chartered Accountants of India (ICAI) together with the ethical requirements that are relevant to our audit of the standalone Ind AS financial statements under the provisions of the Act and the rules thereunder, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the ICAI's code of ethics".*

24 As per Audit Manual of the Audit Firm, there is a requirement of taking a confirmation of Independence of the Firm's personnel. Similarly, the Engagement Partner was required to evaluate and prepare Client/Engagement Acceptance and Continuance Form. There is no evidence in Audit File that the Audit Firm and Engagement team had complied with these requirements on Independence as per SQC 1, SA 200 and SA 220.

Reply of the Auditors

25 While denying the charge, the Auditors stated that independence confirmations were inadvertently not obtained from Madhusudan and Pranaav as they were paid assistants and the client acceptance/continuation form was inadvertently not kept. The Auditors have claimed to have complied with the Independence requirements by reducing self interest threat, familiarity threat and stated that their firm & partners do not have any financial interest in any of the CCD group companies, did not quote lower fees to obtain new engagements, did not have close business relationship with CCD group, nor have they stored any confidential information in their server to be used for any personal gain. Further, no partner or their family are Directors or Officers in CCD group companies, CCD group Directors and Officers did not have significant influence over their engagement, their audit team will be regularly rotated and they did not provide any prohibited service under section 144 of the Act. They have ensured that total fees from auditee did not exceed prescribed

limits and where the amount forms large portions of total fees they have taken safeguards to mitigate the risk.

26 Regarding M/s ASRMP & Co. and another audit firm M/s Sundaresha & Associates, they stated that there are no common partners, except CA Megha Sundaresh Andani, daughter of CA A. S. Sundaresha, but both firms act independently and do not interfere with each other professionally. The Auditors further stated that they did not enter into any contingent fee arrangement with an auditee, ensured fees are not overdue except CCD group (Coffee Day Group) fees which is partially due on account of financial constraint faced by the group. They gave detailed responses regarding their compliance with section 141(3) of the Act and argued that they have complied with the Standards on Auditing and provisions of the Act.

Analysis of reply

27 As per information obtained from the audit firms, CA A. S. Sundaresha has a sole proprietorship firm, namely M/s Sundaresh & Co. Further, he was promoter and founder of M/s Sundaresha & Associates, a partnership firm in practice since 10.11.1997, but he had retired from this firm w.e.f. 31.03.2017. After his retirement, his daughter CA Megha Sundaresh Andani (partner of this Firm) has 72% share in the profit of M/s Sundaresha & Associates, which has five partners. Thereafter, CA A. S. Sundaresha established another partnership firm namely M/s ASRMP & Co. w.e.f., 01.04.2018, which was appointed as the statutory auditor of CDGL from FY 2018-19. CA A. S. Sundaresha has 81% share in the profit of M/s ASRMP & Co., which had four partners. All these firms operate from the same office address.

28 We note from the information obtained from CDGL that CA Pradeepa Chandra C. (Partner of M/s Sundaresha & Associates) represented as partner of M/s ASRMP & Co, Statutory Auditor of CDGL, and gave presentation on behalf of M/s ASRMP & Co. in the Audit Committee Meeting ('ACM' hereafter) of CDGL held on 07.02.2019 and 24.05.2019. These presentations related to review of quarterly results of CDGL by the Auditor, scope of engagement, audit approach and observations of the Auditor on the Statutory Audit of the annual financial statements for FY 2018-19. Further, the presentation given on 24.05.2019 was prepared by CA Megha Sundaresha Andani, partner of M/s Sundaresha & Associates. (As per properties of PDF document containing presentation).

29 The above fact is corroborated by another fact that CA Pradeepa Chandra C. and CA Chaitanya G. Deshpande (both Partners of M/s Sundaresha & Associates) were involved in 47 out of 67 audit areas identified in the audit plan available in the Audit File. Out of these 47 audit areas, 44 were not reviewed by any partner of M/s ASRMP & Co. This shows that the audit of CDGL was performed jointly by partners of M/s ASRMP & Co. and M/s Sundaresha & Associates. But to hide this fact, both partners of M/s Sundaresha & Associates were named as external reviewers in the audit plan. These facts together with the fact that all three firms operate from the same office address, indicate their inter-relationship and lack of independence. Detailed analysis of the role played by these two partners of M/s Sundaresha & Associates is given at para 136 to 138 of this Order.

30 It is important to understand the relationship of these audit firms with Coffee Day Group and its promoters. As per information furnished by these firms and other information available on record, M/s Sundaresha & Associates and M/s ASRMP & Co. were statutory auditors of six Coffee Day Group companies (except CDH&RPL- as per serial no-5 in Table-1). These companies were involved in the diversion of Rs 3,380 crores i.e., 95.62% of total diverted amount of Rs 3,535 crores. Further, during the Financial Year 2018-19, M/s Sundaresha & Associates provided audit and non-audit services to 27 Coffee Day group entities, M/s Sundaresh & Co. provided audit and non-audit services to 29 Coffee Day entities including promoter's family members and M/s ASRMP & Co. provided audit and non-audit services to four Coffee Day group companies. This indicates that M/s ASRMP & Co. had accepted the audit engagement of CDGL from FY 2018-19 despite serious conflict of interest. The relationship of three related audit firms with Coffee Day Group indicates creation of self-interest and familiarity threat. The Auditors have admitted that CA A. S. Sundaresha is associated with Coffee Day Group for a very long time, therefore there is familiarity threat. Replies of the Auditors regarding steps taken to reduce self-interest threat and familiarity threat are mere general statements and without detailing specific steps taken to reduce such threat, despite the three audit firms having audit and non-audit relationships with a large number of Coffee Group entities including promoters.

31 The Auditors have admitted that Independence confirmations were not obtained from two Engagement Team (ET) members but no reply has been given in respect of the remaining five members of the ET (including CA A. S. Sundaresha and two external reviewers). The Auditors have also admitted that client acceptance/continuance form was not kept but did not clarify whether any evaluation of independence was done at the time of acceptance of audit engagement of CDGL. As per SQC 1, the auditor is required to evaluate at the time of first appointment, whether to accept a clients/engagement and thereafter, every year such evaluation is required for continuance of such client/engagement. The Audit Engagement for CDGL for FY 2018-19, was the first appointment of the Auditors and therefore they were required to perform evaluation in terms of provisions of SQC 1 before accepting the engagement. Such an evaluation necessitates a thorough examination of the auditee company's financial parameters, a background check of the promoters, ultimate beneficial owners, key managerial personnel, and ethical requirements, among other things. Evaluation of independence of auditor before acceptance of audit engagement is a mandatory requirement as per Standards on Auditing mentioned above. However, there is no record of this evaluation in the Audit File submitted by the Auditors. The reply of the Auditors reveals their ignorance of the basic requirement of ensuring independence as stated in the Standards on Auditing, which is unacceptable from the Auditors of public limited companies. The Auditors in this case failed to perform due professional care and did not perform sufficient appropriate procedures to evaluate their independence from Coffee Day Group and its promoters before acceptance of audit engagement of CDGL from FY 2018-19. The Auditors were reckless in accepting this audit engagement.

32 An Auditor's independence from the entity being audited, safeguards the auditor's ability to form an audit opinion without being affected by influences that might compromise that opinion. Independence enhances an auditor's ability to act with integrity, to be objective

and to maintain an attitude of Professional Skepticism. An auditor is required to be independent, aside from being in public practice (as distinct from being in private practice), he must be without bias with respect to the client since otherwise he would lack that impartiality necessary for the dependability of his findings, however excellent his technical proficiency may be. It is of utmost importance to the profession that the general public have confidence in the independence of the Auditors. Public confidence would be impaired by any evidence that independence was actually lacking, and it might also be impaired by the existence of circumstances, which reasonable people might believe, are likely to influence independence.

33 In this case, the Auditors failed to perform appropriate audit procedures to evaluate and maintain their independence from CDGL. In spite of Auditors having independence threat, they accepted the audit engagement as statutory auditor of CDGL from FY 2018-19 by disregarding and grossly violating the principles of Independence mentioned in the Standards on Auditing and the Code of Ethics. In view of this, the charge stands proved that the Auditors have violated SQC 1, SA 200 and SA 220.

C.2 Tampering of Audit File and related lapses - SA 230, Audit Documentation

34 The Auditors were charged with tampering with the Audit File to deceive NFRA and making the Audit File unreliable, as audit workings have been done in editable Excel files without any security feature to prevent alteration of audit documentation. The Audit File has, inter alia, 87 Excel files, out of which 68 Excel files were modified between 22.06.2022, the date NFRA asked for the Audit File, and 05.08.2022, the date the Audit File was submitted to NFRA. Further, two files namely "Planning Compliance & Review Summary" and "Deferred Tax (Working)" were created after 22.06.2022, the date when NFRA asked for the Audit File. Such modifications and additions in the Audit File are not permissible as per SA 230 and amount to tampering. Further, as per SQC-1, SA 200 and SA 220, the Audit Firm and the Engagement Team are required to adhere to ethical principles like integrity & professional behavior. The Audit File is required to be assembled within 60 days of the signing of the audit report. The audit report was signed on 24.05.2019. Accordingly, the Audit File was required to be assembled by 23.07.2019. However, it is quite evident from the above that the same was not done. Further, when NFRA advised the Auditors on 22.06.2022, through email and speed post, to send the Audit File, the letter was returned by postal department with remarks 'no such firm on the address', and the Auditors did not respond to the email. Thereafter their email ID and postal address were obtained from ICAI, which intimated the same email ID and postal address except the change of floor number from 3rd floor to 1st floor. On being reminded vide letter dated 19.07.2022 to submit the Audit File, the Auditors responded on 21.07.2022 that they had shifted office from 3rd floor to 1st floor in the same building and that the email dated 22.06.2022 had gone into the SPAM folder. Vide letter dated 21.07.2022 they provided some information and sought 30 days' time for submission of the Audit File after mentioning that since earlier letter was not served on them, they would be submitting the Audit File within 30 days of our letter dated 19.07.2022 and requested to grant time till 18.08.2022. Their request was considered and time was allowed up to 05.08.2022 when they submitted the Audit File.

35 It is mentioned that both emails dated 22.06.2022 & 19.07.2022 were sent on same email ID and as per their version, the first email went to the SPAM folder and the second email was delivered correctly. We note that the letter head of their letter dated 21.07.2022 has the address of 3rd floor, while stating that their address had been changed from 3rd floor to 1st floor. It appears from this, together with the claim of NFRA's first email going to the SPAM folder, that Diligence and Integrity, are absent in the Auditors' conduct and the entire chain of correspondences/events, was a deliberate ploy to delay the submission of Audit File, and gain some time to make changes in the Audit File as pointed out in the preceding para. It is thus evident that the Audit File was not assembled within the prescribed time and the Auditors made deliberate attempts to deceive NFRA by violating fundamental principles of professional behavior in total disregard of SA 200, SA220, SA 230 and SQC 1 and by tampering of Audit File till 05.08.2022.

36 Further, as per para 8 of SA 230, the Auditors were required to prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand: (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements; (b) The results of the audit procedures performed, and the audit evidence obtained; and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions. As per para 9, 10 & 14 of SA 230, the Auditors were required to document, inter alia, the name of person & date of performing audit procedures, name of person performing review, date & extent of review and discussion of significant matters with management & Those Charged With Governance (TCWG) etc. An examination of Audit File shows that the names of the engagement team members & date of performing audit procedures are not mentioned in any of the audit work papers nor are the names of the team members who reviewed the audit work and the extent of review.

Reply of the Auditors

37 While denying this charge, the Auditors have replied that maintenance of editable Excel file is not prohibited in SA 230 and modification of audit file is allowed as per para 16 of SA 230; that they have only formatted those files to make it pleasant to view and that the workings maintained in loose sheets were compiled in Excel format after receipt of NFRA notice; that some of the Excel files were merged and new Excel files were created for ease of review by NFRA. During this process the date modified could have been changed to the latest date. They further stated that the contents of Audit File have not been changed and that details of date of conducting the work by article assistants are available in time sheet maintained separately. In respect of creation of two files namely "Planning Compliance & Review Summary" and "Deferred Tax (Working)" after the date NFRA asked for Audit File, the Auditors have submitted that the information of some files were clubbed and moved to separate files for ease of review by NFRA. They further stated that a combined reading of audit plan, area wise audit procedure and time sheets will provide details of nature, timing and extent of audit procedures performed. Similarly, a combined reading of

completion memorandum and review summary provides their observations, significant matters and conclusions.

38 The Auditors also stated that CA A S Sundaresha has updated his system and that emails were configured to Outlook, hence they were able to receive the second email from NFRA; that their letter head contains old address as 3rd floor instead of 1st floor as the stationary containing old address was printed in bulk and now, they have got new stationary with correct address.

39 Along with reply to SCN, the Auditors have also submitted additional working papers (18 pages) for consideration stating that they have inadvertently missed certain evidence with respect to their Audit File as Test of Controls & Test of Details documents were stored in separate folder pertaining to Internal Financial Controls.

Analysis of reply

40 In terms of SA 230, modification in the audit file after the assembly period is allowed only to clarify any existing audit documentation arising from comments received during monitoring inspections performed by internal or external parties (para A24 of SA 230). The Auditor is required to document the specific reason of making them, when and by whom they were made and reviewed (para 16 of SA 230). On examination of the Audit File, we could not find any recorded reason or document justifying the modification as required under para 16 of SA 230. Similarly, we cannot give credence to the claim that the dates of conducting the audit by article assistants are available in time sheet maintained separately, because these records have not been maintained as part of audit file as required under SA 230. We further note that the Auditors could not give any reply in respect of non-availability of timing of audit procedures claimed to have been performed by other engagement team members including the EP.

41 The tampering of the Audit File is also corroborated by another fact that CA Pradeepa Chandra C. and CA Chaitanya G. Deshpande (both Partners of M/s Sundaresha & Associates) were involved in 47 out of 67 audit areas identified in the audit plan available in the Audit File. Out of these 47 audit areas, 44 were not reviewed by any partner of M/s ASRMP & Co. This shows that the audit of CDGL was performed jointly by partners of M/s ASRMP & Co. and M/s Sundaresha & Associates. But to hide this fact, both were named as external reviewers in the audit plan available in the tampered Audit File.

42 On submission of additional working papers by the auditors and their claim that they had inadvertently missed out including them in the audit file, one has to look into SA 230[5] which emphasizes the importance of timely preparation of audit documentation and its archival within a reasonable time after the issuance of the audit report. We highlight below some of the paras of the Standard:-

[5] Standard on Auditing 230, Audit Documentation.

a) Paragraph 7 of SA 230: The auditor shall prepare audit documentation on a timely basis. The explanatory material to the Standard at Para A1, inter alia, states that Documentation prepared after the audit work has been performed is likely to be less accurate than documentation prepared at the time such work is performed.

b) Paragraph 8 of SA 230: The auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand: (a) The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements; (b) The results of the audit procedures performed, and the audit evidence obtained; and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.

c) Paragraph 9 of SA 230: In documenting the nature, timing and extent of audit procedures performed, the auditor shall record: (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.

d) Paragraph 14 of SA 230: The auditor shall assemble the audit documentation in an Audit File and complete the administrative process of assembling the final Audit File on a timely basis after the date of the auditor's report.

e) Paragraph 16 of SA 230: In circumstances where the auditor finds it necessary to modify existing audit documentation or add new audit documentation after the assembly of the final audit file has been completed, the auditor shall, regardless of the nature of the modifications or additions, document:(a) The specific reasons for making them; and (b) When and by whom they were made and reviewed.

f) The explanatory material to the Standard at Para A21 states that SQC 1[6] requires firms to establish policies and procedures for the timely completion of the assembly of audit files. An appropriate time limit within which to complete the assembly of the final Audit File is ordinarily not more than 60 days after the date of the auditor's report.

g) The explanatory material to the Standard at Para A22 states that the completion of the assembly of the final Audit File after the date of the auditor's report is an administrative process that does not involve the performance of new audit procedures or the drawing of new conclusions.

43 Similar requirements exist in para 7, 14, A21 & A22 of ISA 230 (UK & Ireland), para 7, 14, A21 & A22 ASA 230 (Australia) and para 15 of AS 1215 (PCAOB, U.S.)

44 Even internationally as seen from the following paragraphs, alteration, backdating of work papers/reviews, substitution or addition of the new work papers, placing blank audit papers

[6] Refer para 74 & 75 of Standard on Quality Control 1, Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements

so as to perform audit procedures (commonly referred to as Audit File Tampering) subsequent to issuance of audit report or the assembly of final Audit File by the Auditors are not accepted, as they would leave scope for large scale production of additional documents as an afterthought upon commencement of disciplinary proceedings.

45 In the Matter of KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani (Engagement Partner) relating to tampering of audit file, PCAOB[7] (Public Company Accounting Oversight Board - Audit Regulator of United States of America), observed that "*PCAOB standards require that [a]udit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement . . . [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review*".... "*PCAOB standards further require an auditor to archive a complete and final set of audit documentation as of a date not more than 45 days after the report release date (i.e., the documentation completion date). Any documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.*" ... "*Accordingly, KPMG India violated QC § 20 and QC § 30 by failing to implement, communicate, and monitor adequate policies and procedures to provide the Firm with reasonable assurance that its personnel complied with PCAOB audit documentation standards including standards concerning documentation of the date audit work was completed, of the date audit work was reviewed, and of any changes to the work papers after the documentation completion date*". For this misconduct, a civil money penalty in the amount of $1,000,000 was imposed on KPMG Assurance and Consulting Services LLP, and a civil money penalty in the amount of $75,000 was imposed on Sagar Pravin Lakhani besides suspending Lakhani from being an associated person of a registered public accounting firm for a period of one year, censuring both and requiring KPMG India to undertake and certify the completion of certain improvements to its system of quality control.

46 In another similar case of Deloitte Canada[8] relating to tampering of audit file, PCAOB observed "*PCAOB standards require auditors to prepare audit documentation that accurately reflects when audit work was completed and reviewed. Prior to November 2016, Deloitte Canada's electronic work paper system ("system" or "work paper system") allowed Firm personnel to document their performance and review of work by manually selecting preparer and reviewer sign-off dates for each work paper. In November 2016, the Firm updated its work paper system and removed Firm personnel's ability to manually select sign-off dates. Under the new system, when an auditor entered a sign-off, the current date was automatically generated. At the time the Firm adopted its new system, personnel from the Firm's National Office were aware of a risk that individuals could override the new system by changing their computer date settings to backdate work paper sign-offs. Despite that awareness, the Firm did not take sufficient steps through written policies, guidance, training, or otherwise to address that risk. During the 16 month-period following the adoption of the new work paper system, Firm personnel overrode the system and backdated their work paper sign-offs in at least six issuer audits and two quarterly*

[7] PCAOB Release No. 105-2022-033 dated 06.12.2022.
[8] PCAOB Release No. 105-2021-014 dated 29.09.2021.

reviews subject to PCAOB standards. This conduct occurred while teams were assembling a complete and final set of work papers for retention, or earlier, in these engagements. Additionally, some auditors on these engagements deleted and replaced sign-offs in order to ensure that reviewer sign-offs were dated after preparer sign-offs. Collectively, this conduct obscured the dates on which work had actually been completed and reviewed". For this misconduct, PCAOB had imposed a civil money penalty of $350,000 on the firm besides censuring the firm, requiring it to take corrective actions to establish, revise, or supplement, as necessary, its quality control policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with PCAOB audit documentation requirements, including those concerning the dating of the completion of work performed and the dating of the review of work papers and also directed the firm to ensure that all Firm professionals involved in any "audit," have received four (4) hours of additional training concerning compliance with PCAOB audit documentation standards.

47 There have been many other instances of such wrong doings being penalized by the PCAOB, e.g., KPMG Singapore- Tan Joon Wei (2021), BDO-Mexico (2019), and Deloitte Brazil (2016) etc.

48 We further note that while submitting the Audit File[9] to NFRA, through a duly notarized affidavit dated 05.08.2022 signed by CA A. S. Sundaresha., partner of the Firm, it was averred that *"The Audit File for the financial year 2018-19 as defined in Para 6(b) of SA 230 has been submitted".... "It is certified that the above information is true and complete in all respects, and nothing has been concealed*". The Auditors are expected to know what constitutes "Audit File" as per SA 230 and accordingly, all audit work papers were expected to be available in the Audit File submitted to NFRA. The submission by the Auditors of additional documents now, subsequent to the submission of Audit File, to defend the charges in the SCN, points to the incorrect averments made in the affidavit submitted by the Firm.

49 Therefore, considering the provisions of the auditing standards and the affidavit filed by the Firm, we do not find any merit in the submission of the Auditors regarding the additional documents and we treat the same as an afterthought to cover up the deficiencies in the Audit. Further, this is additional evidence of tampering of the Audit File.

50 The clear evidence of the Auditors tampering with the Audit File without valid reasons, coupled with their delaying tactics in acknowledging communications (email, letter) from NFRA, displays unprofessional behavior unbecoming of a professional auditor. Also, as we have seen in cases decided by PCAOB that internationally any attempt to tamper with the audit file is taken very seriously by auditing regulators and entails significant regulatory sanctions.

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[9] Audit file is defined in para 6(b) of SA 230 'Audit Documentation' as "one or more folders or storage media, in physical or electronic form, containing the records that comprise the audit documentation for a specific engagement".

51 In view of above analysis, the charge that the Auditors have violated SQC 1, SA 200, SA 220 and SA 230 is proved.

C.3 Lapses in audit relating to fraudulent transactions of Rs 3,769.61 crores with MACEL

52 The Auditors were charged with their failure to exercise professional skepticism[10] while performing audit of fraudulent transactions of Rs 3,769.61 crores with MACEL. They were also charged with their failure to perform risk assessment procedure to provide a basis to identify, assess and respond to the Risk of Material Misstatements ('RoMM' hereafter) at the financial statements and assertion level[11]. The facts are as follows. The Audit committee of CDGL, in its meeting held on 17.05.2018, had approved purchase of coffee beans up to Rs 500 crores from MACEL, but CDGL had used this approval to give advance of Rs 3,840.51 crores against the reported purchase of Rs 70.90 crores only. MACEL subsequently repaid Rs 3,779.15 crores which indicates that the advance was not intended for purchase of coffee beans, but for diversion of funds. This huge advance was also an unusual transaction, being approx. 54 times of the value of reported purchase of coffee beans (Table 2).

53 Further, even the approval given by the Audit committee for Rs 500 crores advance to MACEL for purchase of coffee beans was unusual because the company's own reported purchase of coffee beans from MACEL was Rs 70.90 crores only. If the company was to purchase coffee of only Rs 70.90 crores and that too from a related party, the auditors should have used their professional skepticism and questioned why the audit committee gave approval of advance of almost 7 times of the purchase value.

Table 2 Rs in crores

Sr No	Particulars	2018-19	2017-18
1	Purchase of clean and raw coffee	70.90	39.23
2	Advance paid to MACEL	394.21	365.01
3	Interest received on advance paid	5.10	0.37
4	Repayment of advance by MACEL	266.54	321.94
5	Supplier advance balance on 31.03.2019	64.82	3.46

54 The aforesaid advance of Rs 3840.51 crores was also violative of Section 188 of the Act read with Rule 15 of the Companies (Meetings of Board and its Powers) Rules 2014 because under these provisions, prior approval of the company was required to enter into purchase of goods from related parties amounting to 10% or more of turnover of CDGL. CDGL was required to pass a resolution in the general meeting for grant of supplier advance of Rs 3840.51 crores to MACEL as it exceeded 10% of its turnover of Rs 1794.29 crores. Further, as per section 188 of the Act, approval of the Board of Directors was also required for entering into such transactions. There is no evidence in Audit File that the auditor verified whether CDGL complied with these statutory provisions. On the contrary,

[10] As per para 15 of SA 200, Auditor is required to plan and perform Audit with Professional Skepticism.
[11] Para 5 of SA 315, Identifying and Assessing the Risk of Material Misstatement through understanding the Entity and its Environment. Para 5 of SA 330, The Auditor's Response to Assessed Risks.

the Auditors reported in audit report (para xiii of CARO[12]) that the company had complied with section 188 of the Act.

55 The Auditors were also charged with their failure to perform sufficient and appropriate audit procedures in accordance with SA 550[13] while performing audit of Related Party Transactions ('RPT' hereafter). CDGL had shown Rs 394.21 crores as advance given to MACEL (a related party), MACEL had shown that it had received Rs 3,840.51 crores from CDGL. Similarly, while CDGL had shown Rs 266.54 crores as advance repaid by MACEL, whereas MACEL had shown that it had repaid Rs 3,779.15 crores to CDGL during 2018-19. There is a substantial difference of Rs 3,446.30 crores in advance paid to MACEL & Rs 3,512.61 crores in advance repaid by MACEL to CDGL in the Related Party disclosures given by both companies. This resulted in misstatement in Related Party Disclosure of Rs 6,958.91 crores (Rs 3,446.30 crores + Rs 3,512.61 crores). When confronted by NFRA, CDGL admitted vide mail dated 18.10.2022 that it had reported the cumulative highest debit and highest credit balance during the year as advance paid to MACEL and repayment of advance from MACEL in the FS, whereas MACEL informed that it had disclosed in FS the gross amount received from CDGL and repaid to CDGL.

56 The above indicates that CDGL diverted at least Rs 3,769.61 crores (Rs 3,840.51 crores advance paid minus Rs 70.90 crores of coffee beans purchased) to MACEL, an entity owned by promoters of CDEL; and that CDGL made significant misstatements in its disclosure relating to RPTs. As per SA 315, the Auditors were required to perform risk assessment procedures and provide a basis for the identification and assessment of Risks of Material Misstatement (RoMM) at the financial statements and assertion levels. As per SA 330 the Auditors were required to respond to the identified RoMM. There is no evidence in the Audit File that such procedures were performed to identify & respond to RoMM due to fraudulent diversion of funds to MACEL.

57 SA 240[14] provides that the objectives of auditor are to identify and assess the RoMM in the FS due to fraud, obtain audit evidence and respond to identified or suspected risk. It requires the auditor to maintain professional skepticism recognizing the possibility of existence of material misstatement due to fraud. It further requires auditor to evaluate the business rationale (or lack thereof) of the significant transactions that are outside the normal course of business or otherwise appear unusual and evaluate whether such transactions may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of funds. There is no evidence in Audit File of performing any audit procedure to comply with SA 240. The Auditors failed to comply with SA 240 in respect of supplier advance given to MACEL, which was outside the normal course of business and was unusual. There is no evidence in Audit File that any questions were asked from the Audit Committee, TCWG and Management about these suspicious fraudulent transactions. The Auditors did not perform audit with professional skepticism & judgement at all.

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[12] Audit report dated 24.05.2019 under the Companies (Auditor's Report) Order, 2016 ('CARO' hereafter).
[13] SA 550, Related Parties. It deals with auditor's responsibilities regarding related party relationships, transactions, and balances.
[14] SA 240, The Auditor's responsibilities relating to Fraud in an Audit of Financial Statements.

58 The Auditors had the statutory duty to report the offence of fraud to the Central Government under Section 143 (12) of the Act. Grant of omnibus approval by Audit Committee for abnormal amount of supplier advance to MACEL and its subsequent payment in the garb of supplier advance without any business rationale were clear indications of diversion of funds, in the nature of fraud on the company. The Statutory Auditors not only failed to report the same to the Central Government, but mis-reported under the Companies (The Auditors Report) Order 2016 that no material fraud by or on the company had been noticed or reported during the course of audit. Accordingly, the Auditors were charged with violation of section 143 (12) of the Act and CARO.

59 Further, the Auditors were charged with failure to identify another misstatement of Rs 69.77 crores in disclosures relating to purchase of coffee beans from MACEL and failure to report violation of section 177 & 188 of the Act relating to RPTs, and violation of CARO. As per FS of CDGL, it purchased 'clean and raw coffee' worth Rs 70.90 crores from MACEL. The Audit File showed that coffee beans of Rs 70.90 crores were purchased from 40 Related Parties but were clubbed together and disclosed in Related Party Disclosures as purchases from MACEL on the plea that '*These purchases are made through MACEL who is coffee pooler for the company and is disclosed accordingly'*. The amount of coffee purchased from MACEL was only Rs 1.13 crores, which was not disclosed at all. Pooling of transactions with more than 40 Related Parties into transaction with one Related Party is not permitted as per Ind AS 24, Related Party Disclosures. Further, approval of Board of Directors (BOD) & Audit Committee was not taken in respect of transactions with 40 related parties, which is a violation of section 177 & 188 of the Act.

60 Further, CDGL has claimed in related party disclosures given in the FS that all transactions and balances were priced on an "Arm's length basis". In this connection, Para 23 of Ind AS 24, Related Party Disclosures states "*Disclosures that related party transactions were made on terms equivalent to those that prevail in arm's length transactions are made only if such terms can be substantiated"*. There is no work paper in the Audit File that the Auditors performed any audit procedure to examine whether related party transactions and balances were at arm's length. Further, as per Ind AS 24, CDGL was required to disclose the terms & conditions of related party transactions, however CDGL did not give such disclosure in the FS. The Auditors did not report non-compliance with Ind AS 24 by CDGL.

61 Furthermore, the Auditors were also charged with their failure to perform appropriate audit procedures to verify whether CDGL had complied with Ind AS 32 & Ind AS 109 in relation to loans given to MACEL[15]. CDGL did not classify loans given to MACEL as financial assets in accordance with Ind AS 32. The loan given to MACEL was shown as 'Other Assets' under 'Current Assets' treating it as a supplier advance in its books though a major portion was loan camouflaged as supplier advance for supply of coffee beans, and was required to be classified as 'Financial Assets' in terms of definition of financial assets and provisions of presentation given at para 11 & 15 of Ind AS 32. Further, CDGL did not

[15] Ind AS 32, Financial Instruments: Presentation, Ind AS 109, Financial Instruments.

recognize impairment loss allowance & did not write off non-recoverable portion of loans given to MACEL (Rs 287.32 crores) as per Para 5.5.1 and para 5.4.4 of Ind AS 109, although MACEL did not have the financial strength to repay the loans. This resulted in CDGL violating Ind AS 32 and Ind AS 109. The Auditors were required under section 143(3)(e) of the Act, to report whether, in their opinion, the financial statements comply with the accounting standards. They had reported that the Financial Statements comply with the Ind AS specified under section 133 of the Act. Thus, they were charged with violation of section 143(3)(e) of the Act.

Reply of the Auditors

62 While denying the charge, the Auditors submitted that they did not conclude any fraud in the transactions due to the fact that advance was given to MACEL for purchase of coffee as a general trade practice on similar lines with other planters, from whom coffee was being purchased regularly. Since CDGL was following the same procedure over a decade, the question of considering the transaction as suspicious did not arise and that the same was accepted by the predecessor Auditor as well. The Auditors have also stated that the audit committee approval was to cater to the future need for facilitating an instant coffee plant, which required huge quantity of coffee, but the plan was dropped later on. The Auditors have submitted that the transaction with MACEL was in the ordinary course of business and thus not covered u/s 188 of the Act.

63 The Auditors further pointed out that as the account was maintained as running current account, the maximum balance at any point of time during the year was reported as gross transactions with MACEL; that Ind AS 24 does not specifically provide that gross amount have to be reported in related party disclosures and the company adopted the most appropriate disclosure that they relied on the balance confirmations obtained from the company; that interest is charged on the advance paid to planters including MACEL; and that the amount advanced to MACEL is not regarded as fraud and there is no misstatement in disclosure of related party transactions. Accordingly, the question of reporting fraud under section 143(12) of the Act & CARO does not arise.

64 The Auditors have justified the pooling stating that MCAEL acts as coffee pooler to CDGL as a general trade practice adopted by CDGL over several years as a matter of convenience. The Auditors have attributed non-disclosure of purchase from MACEL worth Rs 1.13 crores to a clerical mistake. They have stated that the company had complied with Ind AS 24. They have further submitted that approval of audit committee was obtained for purchase from MACEL as ordinary course of business and therefore, no further approval was required for other related parties.

65 The Auditors further stated that during the year there was no new type of transaction with any related party and that they had tested that transactions with related parties had been carried out at 'Arm's length'; that there was no adverse indication, hence nothing was recorded in Audit File; that terms & conditions of RPTs are mentioned at note no. 38(E) of FS; that all RPTs were conducted in ordinary course of business; that audit procedure did not reveal any fraud and that they had obtained reasonable assurance that FS were free from

misstatements. Accordingly, they claimed to have complied with section 143(3)(e) of the Act, SA 200, SA 240, SA 315 and SA 550.

66 In respect of compliance with Ind AS 32 and Ind AS 109, the Auditors have stated that supplier advance is intended to be settled against supply of coffee and original intention in this case was not to provide loan but the advance was provided in the nature of current account and the balance outstanding was cleared in subsequent year; therefore, the advance to MACEL was not classified as financial assets in terms of provisions of Ind AS 32. Further, loans of MACEL were recovered fully during the year. Accordingly, at the time of finalization of audit, there was no indicator of impairment, and therefore question of impairment loss or write off does not arise.

Analysis of reply

67 The Auditors have stated in their reply that they did not sense any fraud in the aforementioned transactions because it was a routine practice to do such transactions. We are unable to accept this. We see from the FS of MACEL that during FY 2017-18, it had a revenue from operations of Rs 2.17 crores and it had negative net-worth of Rs 166 crores on 31.03.2018, indicating that MACEL had neither the level of operations nor the financial strength to justify release of huge advance of Rs 3,840.51 crores. Such a huge amount of advance and that too to a related party and without approval of the Board was an unusual transaction. The Auditors had failed to adequately respond to the fraud risks associated with the significant unusual transactions. There is no evidence in the Audit File to support the claim that the advances were given for larger quantity of coffee beans to be used for proposed instant coffee plant that was later on dropped by the company. Nor is there any evidence of any agreement with MACEL, or whether MACEL had the capacity to supply coffee beans worth Rs 500 crores. Further, the reported purchase of coffee beans from MACEL in the previous year was only Rs 39.23 crores, which is glaring evidence of the unusual nature of these advances. The Auditor's plea that section 188 of the Act is not applicable for transactions undertaken in the ordinary course of business, does not hold as such an exemption to the provisions of section 188 of the Act, is available only if the transaction is on "Arm's length basis". The nature and facts of this advance and the absence of rationale & documentation clearly indicate that these transactions cannot be treated as arm's length. We therefore find that the Auditors failed to determine whether these significant Related Party Transactions of unusually high amount were authorized and approved by the Board of Directors in terms of section 188 of the Act.

68 From the above analysis, it is established that the Auditors failed to question and report the diversion of funds by CDGL by way of huge amount of advance to MACEL, a promoter owned and controlled entity, without any justification or operating necessity, without the Board approval and without any agreement. Such fraudulent diversion of funds, had serious repercussion on the financial health of the company in terms of liquidity, repayment of loans, payment to creditors and distribution of profits to the shareholders etc. the importance of the same can be understood from the fact that there is a separate Standard on Auditing (SA 240) prescribing the Auditor's responsibilities relating to fraud in an audit of financial statements besides the Auditors having a statutory duty to report fraud to the

Central Government under section 143(12) of the Act and CARO 2016. The auditors should have performed the audit with professional skepticism and questioned such diversion of funds which also amounted to fraud, but the Audit work papers do not evidence the same. Had they applied professional skepticism, perhaps they may have detected this fraudulent diversion of funds and reported in their audit report. But by not showing due diligence and professional skepticism, they foreclosed the possibility of detections of such fraudulent diversion of funds. We further find gross failure of the Auditors in identification of Risk of Material Misstatements associated with related party transactions. The Auditors did not exercise due diligence and did not obtain sufficient appropriate audit evidence while doing audit of related party transactions.

69 With regard to Related Party Disclosures given by CDGL, we note from para 18 of Ind AS 24 that 'the amount of the transactions' is required to be disclosed. Therefore, reporting of only the highest debit and credit balance with MACEL instead of gross transaction amount was not in conformity with Ind AS 24, leading to misstatement in Related Party Disclosure of Rs. 6,958.91 crores. Further, the Audit File documents the purchases of Rs 70.90 crore from 40 different related parties, wrongly disclosed in FS as purchase from MACEL only, there is no disclosure of the purchase of coffee beans of Rs 1.13 crores actually supplied by MACEL. This non-disclosure resulted in mis-statement of Rs 69.77 crore (Rs 70.90 crore- Rs 1.13 crores). Ind AS 24 has no provision that transactions can be clubbed in the name of one Related Party. Such clubbing would be misleading to the users of the Financial Statements. The reasons for the management to do this are not far to seek, as this provided a reason for the management to fraudulently advance unusually large amount of advance of Rs 3840.51 crores to MACEL portraying it as a large supplier of coffee beans. The Auditors failed to exercise due diligence and professional skepticism in auditing these RPTs which led to misstatements and violation of Ind AS 24.

70 Rule 6A of the Companies (Meeting of Board and its Powers) Rules 2014 deals with procedure for approval of related party transactions by the Audit Committee. Sub rule 4 of the said Rule inter alia provides that approval shall contain 'name of the related parties'. In this case, no approval was granted by the Audit Committee or the BOD of CDGL for entering into transactions with 40 other related parties. In respect of section 188 of the Act, though these transactions were in the ordinary course of business, it is observed from the Audit File that the Auditors did not perform any audit procedure to evaluate whether such transactions were entered into on "Arm's Length Basis" as required under section 188 of the Act. These prove blatant violation of section 177 & 188 of the Act. Failure of the Auditors to perform the audit procedures and question these transactions indicate their failure in discharging the statutory duty cast upon them under The Companies (Auditors Report) Order 2016.

71 The Auditors were appointed as the Statutory Auditor of CDGL from FY 2018-19, and this being the first year of audit, the Auditors were expected to perform detailed audit procedures to understand related party relationships, transactions and outstanding balances in accordance with auditing standards, which they did not do.

72 We do not find any merit in the Auditors reply that they performed test to check that RPTs were carried out on "Arm's length basis" and that they did not record it in Audit File as there was no adverse observations. In this connection, para A5 of SA 230, Audit Documentation provides that oral explanation by the auditor, on their own, do not represent adequate support for the work performed by the auditor or conclusions reached, but may be used to explain or clarify information contained in the audit documentation. Since nothing was recorded in the Audit File regarding performing such tests, we find the reply of the Auditors an afterthought to cover up their gross failure in performing audit of important and sensitive area of related party transactions.

73 With regard to related party disclosure in the note no. 38 (E) of Financial Statements of CDGL referred to by the Auditors, which states that "*All transactions and outstanding balances with these related parties are priced on an arm's length basis and are to be settled within the credit period allowed as per the policy. None of the balances are secured*", we could not find in the Audit File any evidence of the credit policy and the terms & conditions of supplier advance given to MACEL & Dark Forest Furniture Company Private Limited and loans given to M/s Classic Coffee Curing Works.

74 With regard to classification and presentation of supplier advance given to MACEL, it is noted that CDGL provided an amount of Rs 3,840.51 crores to MACEL in the garb of supplier advance, whereas MACEL had supplied coffee beans of Rs 1.13 crores only. This clearly shows that the substance of the transaction was not supplier advance and the amount of coffee actually supplied by MACEL (Rs 1.13 crore) indicates that the advance was not required for purchase of coffee beans. Since a major portion of the supplier advance was not for supply of coffee beans, it should have been classified and presented as 'Financial Assets' in terms of definition of financial assets given at para 11 and provisions of presentation given at para 15 of Ind AS 32. It is evident that CDGL misrepresented the true nature of the transactions with the mala-fide intension of concealing fraudulent diversion of funds. The Auditors failed to perform appropriate audit procedures to identify this misclassification and question the management.

75 As discussed in charge C-4, CDGL was involved in evergreening of loans and round tripping of funds with the ulterior motive of understating the loan to MACEL by Rs 222.50 crores. These loans were never repaid by the group companies, but financial statements were manipulated to conceal the real picture. The financial positions of MACEL showed that it had negligible business operations, had negative net worth, and was used as conduit by promoters to siphon off money from CDGL. These were sufficient evidence that MACEL lacked the financial strength to repay loans and accordingly recognition of impairment loss allowance and writing off of non-recoverable portion of loans was required to be made but CDGL did not do so and the Auditors did not question the management and did not perform any audit procedures to obtain sufficient and appropriate audit evidence to determine whether CDGL's decision in this regard was in accordance with the provisions of Ind AS 109.

76 Therefore, we hold that the charge on this count stands proved and uphold that the Auditors have violated section 143(3)(e), 143(12) of the Act, CARO 2016 and SA 200, SA 240, SA 315, SA 330 and SA 550.

C.4 Lapses in audit relating to fraudulent understatement of advance to MACEL by Rs 222.50 crores and failure to detect evergreening of loans

77 The Auditors were charged with failure to perform risk assessment procedure to identify, assess and respond to Risk of Material Misstatements in the Financial Statements due to fraud, in relation to fraudulent understatement of supplier advance to MACEL by Rs 222.50 crores. MACEL had issued several cheques in March 2019 for repayment of supplier advance of Rs 222.50 crores to CDGL. These cheques remained unrealised on 31.03.2019 and were cleared in the next FY i.e., 2019-20, by evergreening of loan through structured circulation of funds among Coffee Day group companies.

78 MACEL had issued cheques of Rs 222.50 crore to CDGL towards repayment of advances, which were used by CDGL to reduce the amount of outstanding balance from MACEL to Rs 64.82 crores on 31.03.2019, without encashing these cheques. The Audit File shows that actual outstanding supplier advance balance was Rs 287.32 crores (Rs 64.82 crores + Rs 222.50 crores of cheques received but not cleared on 31.03.2019). MACEL did not have adequate bank balance to honour the cheques issued by it, but CDGL and other related parties subsequently gave funds to MACEL in April and May 2019 for clearance of cheques issued by MACEL and accounted for in FY 2018-19. This indicates the fraudulent intent of issuance of cheques before 31.03.2019 to understate Related Party outstanding advances by Rs 222.50 crores resulting in an understatement of Bank borrowings by Rs 165.50 crores and overstatement of current account balances by Rs 57.00 crores in the Balance Sheet. The Auditors failed to report this fraud to the Central Government, as required under Section 143 (12) of the Act. On the contrary, they reported in CARO that no material fraud by or on the company had been noticed or reported during the course of audit. Accordingly, the Auditors were charged with violation of section 143 (12) of the Act and also the Companies (The Auditors Report) Order 2016. As per section 143(1) of the Act, the Auditors were also required to inquire whether transactions are represented merely by book entries and are prejudicial to the interest of the company. The accounting entries for Rs 222.50 crores were merely book entries. The Auditors did not report these fictitious accounting entries and thus were charged to have violated section 143(1) of the Act.

79 The cheques of Rs 222.50 crores received up to 31.03.2019 but not credited in bank accounts, constituted 27.75% of total borrowings of Rs 801.90 crores of CDGL. This was an indication of Risk of Material Misstatement (RoMM) due to fraud. Auditors are required to perform appropriate audit procedures to investigate the RoMM as per SA 240, SA 315 and SA 330. In the instance case, there is no evidence in the Audit File that the Auditors performed such audit procedures to identify and respond to RoMM due to fraudulent reduction of Related Party outstanding balance in the form of supplier advances and bank borrowings & conversion of related party advances into bank balances. As such the Auditors were charged to have violated SA 200, SA 240, SA 315 and SA 330

Reply of the Auditors

80 While denying the charge, the Auditors have stated that they were not having access to books of accounts of MACEL; that CDGL has a regular practice of providing advance for coffee purchase and as a part of risk assessment procedure they ensured that the cheques were not stale cheques and were realised in the subsequent period; that they ensured that there is no risk of misstatement and question of fraud does not arise; that investigations by various agencies never concluded the same as fraud nor did the banks flag these transactions as suspicious; and that they were not required to enquire into the source of funds. Accordingly, they have complied with the Act and the auditing standards. They have stated that section 143(1) provides certain rights to the auditor and does not cast any duty on the auditor, accordingly the question of violation of section 143(1) of the Act does not arise.

Analysis of reply

81 We find that CDGL received four cheques of Rs 65.50 crores in March 2019 (FY 2018-19) from MACEL, which were cleared on 04.04.2019 by evergreening of loan through circulation of funds between MACEL and CDGL. We note from Table 3, which is an extract of the CDGL's account with Yes bank that three payments amounting to Rs 65.5 crore were received from MACEL on 4th April 2019 and three payments of Rs.65.50 crore were made by CDGL to MACEL on the same day, the receipts and payments matching exactly.

Table 3: (Date = 04.04.2019)

Particulars	Rs in crores		
	Payment	Receipt	Balance
Receipt from MACEL		24.50	-50.48
Payment to MACEL	21.90		-72.38
Receipt from MACEL		23.90	-48.48
Payment to MACEL	24.01		-72.49
Receipt from MACEL		17.10	-55.39
Payment to MACEL	19. 59		-74.98
Total	65.50	65.50	

82 While the Auditors claim to have ensured that the cheques received in March were cleared in the subsequent accounting period by verifying receipt column of above bank statement, they have chosen to overlook the obvious evergreening of loans of Rs 65.50 crores by the circular transactions on the same day, which was evident from payment column of the same bank statement for the same day. This clearly indicates lack of professional skepticism (SA 200) and due diligence while verifying bank statements. Therefore, we are of the view that the Auditors' inert passivity in the face of known evergreening of loans and understatement of related party borrowings establish their gross negligence in performance of Audit.

83 Similar evergreening through circulation of funds could be observed from bank statement of CDGL with IndusInd Bank as well and the Auditors have claimed that they have verified realization of cheques in the bank statement of CDGL. CDGL received five cheques of

total amount of Rs 25 crores on 30.03.2019 from MACEL, which were cleared on 02.04.2019 in circular manner. For example, MACEL paid Rs 6.70 crores to CDGL, which then paid Rs 6 crores to MACEL, which then paid Rs 5 crores to CDGL and so on..... There was no economic substance in these transactions.

84 Similar evergreening through circulation of funds could be observed from bank statement of CDGL with Karnataka Bank as well and the Auditors have claimed that they have verified realization of cheques in the bank statement of CDGL. MACEL on 30.03.2019 issued six cheques of total amount of Rs 105.00 crores favoring CDGL. On 04.04.2019 the account was credited with Rs 22.70 crore from MACEL's own bank a/c in Yes Bank. This was followed by a series of circular transactions, on the same day, between MACEL and CDGL, starting with MACEL paying Rs. 20 crores to CDGL, followed by CDGL paying the same amount to MACEL and so on, to enable clearance of six cheques amounting to Rs 105 crores issued to CDGL on 30.03.2019. Further, on 30.04.2019, MACEL got Rs 24 crores from CDGL, which was used on the same day for clearance of five cheques issued to CDGL on 31.03.2019 for total amount of Rs 20 crores.

85 In light of glaring lack of evidence to support a valid business reason for the round-trip transfers of funds and clear indications that CDGL's funds were being misappropriated, resulting in a material misstatement of the financial statements, and fraud, and the Auditors' failure to perform requisite additional auditing procedures and questions such transactions, we conclude that the Auditors did not exercise the necessary professional skepticism to determine whether these transactions posed a risk of material misstatement due to fraud and failed to obtain sufficient appropriate audit evidence in respect of these circular transactions.

86 The Auditors' contention that section 143(1) of the Act provides certain rights to auditor and does not cast any duty on the auditor is not acceptable as the auditor is required by section 143(1)(b) to inquire whether the transactions of the company which are represented merely by book entries are prejudicial to the interest of the company. Obviously, the Auditors have failed to comply with these provisions in this case. In view of the analysis, the charge is proved that the Auditors have violated section 143(1)(b), 143(12) of the Act, SA 200, SA 240, SA 315, SA 330 and have violated CARO.

C.5 Lapses in audit relating to diversion of Rs 130.55 crores to M/s Classic Coffee Curing Works

87 The Auditors were charged with their failure to exercise professional skepticism and failure to obtain sufficient appropriate audit evidence in relation to a loan of Rs 130.55 crores given to M/s Classic Coffee Curing Works ('CCCW' hereafter) in FY 2018-19, CCCW being a subsidiary partnership firm in which CDGL has 99% share. If sufficient and appropriate audit procedure had been performed, it would have come to the notice of the auditors that it was not actually a loan but a case of circular transaction, diversion, siphoning of the money. CCCW is a small entity, having a balance sheet size of Rs 1.92 crores, net worth of Rs 1.81 crores only and no revenue from operations during FY 2017-18. The loan of Rs 130.55 crores given by CDGL to CCCW was further passed on to Kumar

Hegde H C as a 'Capital Advance' by CCCW. Further, in following financial year 2019-20, as per CDGL bank statement with the Corporation Bank, on 09.05.2019, CDGL again paid Rs. 135.50 crore in seven installments to MACEL, which in turn passed on the amount to Kumar Hegde, enabling him to repay the capital advance. Out of this, Kumar Hegde repaid Rs 55.50 crores directly to CDGL in three installments and CCCW repaid Rs 80 crores to CDGL in four installments. All these transactions were done on the same day. Thus, the CCCW repaid the advance received from the CDGL with the additional funds received from CDGL through a series of circular transactions but the end use of the money originally given as capital advance to Kumar Hegde in 2018-19 remains unknown.

88 The Audit File indicates that FS of CCCW and Standalone Financial Statements of CDGL were manipulated during the course of audit with the active involvement of the Auditors. The audit work sheet named 'Analysis', has two different figures of loan recoverable from CCCW at two different rows i.e., Rs 80.12 crores at row no-7 and Rs 130.67 crores at row no-32. There is a difference of Rs 50.55 crores between these two lines. The probable reason for the difference is evident from audit work sheet named 'Capital Advance Mar 19', which has list of advances given for capital goods worth Rs 91.74 crores. The list does not include the name of CCCW, but in the summary, Rs 50.55 crores is reduced by writing 'loan to partnership firm'. This indicated that loan to CCCW was manipulated from Rs 80.12 crores to Rs 130.67 crores. This is also corroborated from the fact that Audit File has two sets of audited FS of CCCW, first set of FS shows loan of Rs 80.00 crores taken from CDGL and second set of FS shows loan of Rs 130.55 crores with lender name not mentioned. From the structures and nomenclature of audit work sheets in the Audit File, it appears that management initially provided first set of FS of CCCW to the Auditors which shows loan of Rs 80.00 crores, thereafter FS of CCCW was changed during the course of audit into second set of FS showing loan of Rs 130.55 crores. This is also evident from balance confirmation signed by CDGL & CCCW for Rs 83.59 crores only. Balance confirmation for Rs 130.55 crores is not available in Audit File.

89 The Auditors were further charged with failure to exercise due diligence during audit of Consolidated Financial Statements (CFS) of CDGL and its subsidiary CCCW. Two sets of FS of CCCW, with different figures therein, were available in Audit File. Basis of ignoring first set of FS of CCCW and consolidating the second set is not available in the Audit File. Further, both sets of FS of CCCW are not signed by any officer of CCCW but signed only by its statutory auditor CA Rajaram Kote, partner of M/s Chandrashekar Kote & Co., 7, Madhuvana Layout, Chikmagalur-577101. ICAI membership number of signing partner and ICAI firm registration number of Audit Firm are not mentioned in both sets of FS. These lapses make the FSs of CCCW deficient, thus leading to a misstatement of Rs 132.37 crores in the Balance Sheet and misstatement of Rs (-11.82) lakhs in the Statement of Profit and Loss in the Consolidated Financial Statements.

90 No document or evidence is available in the Audit File about any risk assessment procedure performed by the Auditors to examine the purpose of this loan, verifying approval of Audit Committee/Board of Directors for giving this loan and communication with TCWG on this matter. Accordingly, the Auditors were charged with violation of provisions of SA 200, SA 240, SA 315, SA 330 and Section 143(1), 143 (12) and 177 of the Act.

91 Further, the Auditors were also charged with their failure to perform appropriate audit procedures to verify whether CDGL has complied with Ind AS 109 in relation to loans given to CCCW. CDGL did not recognize impairment loss allowance & did not write off non-recoverable portion of loans given to CCCW (Rs 130.55 crores) as per Para 5.5.1 and para 5.4.4 of Ind AS 109, although CCCW did not have the financial strength to repay the loans. This resulted in CDGL violating Ind AS 109. The Auditors were required under section 143(3)(e) of the Act, to report whether, in their opinion, the financial statements comply with the accounting standards. They had reported that the Financial Statements complied with the Ind AS specified under section 133 of the Act. Thus, they were charged with violation of section 143(3)(e) of the Act.

92 Furthermore, the Auditors were also charged with failure to exercise due diligence while performing audit of Internal Financial Control over Financial Reporting. They did not perform adequate audit procedure in relation to fraudulent diversion of funds to related parties, evergreening of loans through round tripping of funds and non-recoverability of loans from related parties as discussed in Charges no. C.3, C.4 and C.5. As per SA 315, the auditor is required to obtain an understanding of the control environment. There is no evidence in Audit File that the Auditors had conducted any Test of Controls. For IFC reporting, the Auditors had recorded, inter alia, that they had conducted test of details, however details of transactions tested are not available in the Audit file. Further, SA 610, Using the work of Internal Auditor, has provisions relating to statutory auditor's responsibilities in case the work of internal auditor is used. They had collected reports of internal auditor, however it is not recorded in Audit File as to how they used the work of internal auditor. It seems that they did not comply with SA 315 and SA 610 in respect of control environment. Therefore, the Auditors were charged with non-compliance with section 143 (3) (i) of the Act, which required them to report on the adequacy and operating effectiveness of Internal Financial Control.

Reply of the Auditors

93 The Auditors have denied this charge stating that the company had passed a special resolution on 07.03.2019 fixing a limit of Rs.4000 crore for investment and loans; the loan to the firm was within the said limit and there is no violation of section 177 of the Act; that the Capital advance by CDGL to CCCW was recovered before the date of signing the financial statements; that no risk of asset recovery was present; and that accordingly the audit was in compliance with section 143(1) of the Act.

94 On the difference of Rs.50.55 crore in the two sets of FS, the Auditors have submitted that the amount was paid to M/s Dark Forest Furniture Company Pvt. Ltd. ('DFFCPL' hereafter, a related party) on behalf of CCCW, and was accounted as capital advance to DFFCPL instead of advance to CCCW and same was rectified later on.

95 The Auditors have further replied that CCCW is a partnership firm which is not required to be mandatorily audited under any regulation. However, CDGL was following the practice of getting the same audited and signed by a Chartered Accountant. They further submitted that membership and registration number were mentioned from the date, when

UDIN[16] was made mandatory i.e., July'2019. Accordingly, the said FS of CCCW was considered by them for consolidation purpose and there is no lapse in audit of CFS.

96 In respect of compliance with Ind AS 109, the Auditors stated that the source of payment by Kumar Hegde to CCCW cannot be determined by them as statutory auditor of CDGL and that Kumar Hegde had already repaid it in the subsequent year before signing of audit report. Accordingly, at the time of finalization of audit, there was no indicator of impairment, and therefore question of impairment loss or write off does not arise.

97 The Auditors have denied the charge relating to Internal Financial Control. Citing para 5 of guidance note on audit of cash and bank balance issued by ICAI, they stated that there is no such expectation from the auditor; that they have verified bank reconciliation statement & staff advance and referred to relevant audit work papers in Audit File; that they do not conduct quarterly audit of CDGL but conduct limited review and as part of annual audit, verified balance confirmations on test check basis. They have however admitted that for major components of FS i.e., revenue, procurements and fixed assets, Test of Controls and Test of Details documents were not available in Audit File submitted to NFRA, but stated that they had conducted the test of controls and test of details in these areas also, but stored the documents in separate folder pertaining to IFC and attached some documents with the reply to SCN. They also stated that they have complied with section 143(3)(i) of the Act and provided disclaimer of opinion in respect of the same in the absence of sufficient and appropriate audit evidence to provide an unmodified opinion.

Analysis of reply

98 We find that the special resolution passed by the shareholders of CDGL for investment up to Rs 4000 crores set the maximum limit up to which investment could have been made, whereas section 177 of the Act requires the Audit Committee to approve specific transactions mentioning party wise details. The Audit Committee of CDGL passed a resolution on 17.05.2018 granting omnibus approval for Related Party Transactions (RPT) with seven related parties. The loan of Rs 130.55 crores given to CCCW, though an RPT, is however not covered in the list approved by the Audit Committee and was therefore an unauthorized transaction.

99 On the plea of the auditor that the Capital advance was recovered, it is necessary to understand how the loan was given and falsely shown as recovered through a web of circular transactions. CDGL disbursed loan of Rs 130.55 crores to CCCW during 2018-19, which disbursed this amount to Kumar Hegde for purchases of coffee estates. As per agreement dated 30.03.2019[17] entered into between CCCW and Mr. Kumar Hegde, Rs 130.55 crores was paid as an advance to Mr. Kumar Hegde for purchase of 750 acres of coffee estates, out of which 100 acres were already identified as owned by Mr. Kumar Hegde and remaining coffee estates were to be identified. Tentative cost was estimated as Rs 20 lacs per acre making the total cost of the deal at approx. Rs 150 crores. Despite identification of only 100 acres (13.33% of total area of 750 acres), advance of Rs 130.55

[16] Unique Document Identification Number.
[17] Agreement is available in the Audit File.

crores (87.03% of tentative cost of Rs 150 crores) was given, which was unusual and indicative of diversion of funds. The Auditors did not question this unusual payment of advance. We also note from the Audit File that the entire funds totaling Rs 130.55 crores were ultimately diverted to an individual (Kumar Hegde) and were never returned to CDGL but escaped any scrutiny by the Auditor.

100 In FY 2019-20, Kumar Hegde reportedly repaid this loan to CCCW, which in turn repaid the loan to CDGL on 09.05.2019. This repayment of loan by Kumar Hegde and CCCW was orchestrated by rotation of CDGL's own funds via 'Round tripping of funds' involving MACEL. The Auditors claimed to have verified recovery of loan from CCCW, but they failed to identify this round tripping of funds from their scrutiny of CDGL's bank statement with Corporation Bank and also failed to report this diversion of funds to the Central Government u/s 143(12) of the Act and in the Independent Auditor's Report.

101 The Auditors attempted to justify the difference in loan amounts due to the manipulation of balances with CCCW and DFFCPL by claiming that the loan was given to DFFCPL on behalf of CCCW. This is contradictory to the agreement between CCCW & Kumar Hegde in which it is recorded that CCCW paid Rs 130.55 crores advance to Kumar Hegde. Further, such a huge amount of loan cannot be paid to anyone other than the loanee without proper documentation. As a result, we conclude that the Auditors' reasoning for the presence of two sets of FS of CCCW is baseless and an afterthought to cover up the deficiencies in their Audit.

102 The Auditors have not explained why the FSs of CCCW were not signed by any CCCW officer or even an officer of CDGL, which was the major partner of CCCW. Regarding the absence of the signing partner's ICAI membership number and the auditor firm's ICAI firm registration number on the FS and audit report of CCCW, the Auditors have contended that mentioning these details was not mandatory prior to July 2019. We note that such information was required to be mentioned in the Audit Report as per the requirement of SA 700, Forming an opinion and reporting on financial statements, during the relevant time period. Further, the availability of two sets of unsigned financial statements, as well as the absence of the signing partner's ICAI membership number and the Audit Firm's ICAI firm registration number, casts serious doubt on the authenticity of these FSs. Accordingly, we conclude that the Auditors were grossly negligent in conducting audit of Consolidated Financial Statements.

103 As already discussed, CDGL was involved in evergreening of loans and round tripping of funds with the ulterior motive of converting the loan of Rs 130.55 crores given to CCCW into the loan given to MACEL. This loan was never repaid by CCCW, but financial statements were manipulated to conceal the real picture. The financial positions of CCCW showed that it had no business operations, had negligible net worth, and were used as conduits by promoters to siphon off money from CDGL. These were sufficient evidence that CCCW lacked the financial strength to repay loans and accordingly recognition of impairment loss allowance and writing off of non-recoverable portion of loans was required to be made but CDGL did not do so and the Auditors did not question the management and did not perform any audit procedures to obtain sufficient and appropriate audit evidence to

determine whether CDGL's decision in this regard was in accordance with the provisions of Ind AS 109.

104 The additional documents furnished by the Auditor in support of conducting test of controls were not part of the Audit File and hence are not accepted. However, on perusal, we found that even these pertain only to procurement, sales, duty drawback and expenses etc. and there is no document on test of control in respect of the unusually high amounts of supplier advance of Rs 3,840 crores given to MACEL, loans given to CCCW and banking transactions involving evergreening of loans. Further, the Guidance Note issued by ICAI requires the Auditors to review the segregation of duties relating to authorisation of transactions, handling/issuance of cheques, proper authorisation of banking transactions and safe custody of cheque books etc. The Audit File shows no evidence of Auditors having performed any such procedures.

105 The above analysis shows that the Auditors failed to exercise professional skepticism while performing audit of internal financial control. They failed to identify complete absence of IFC, which was evident from evergreening of loans through structure circulation of funds and round tripping of funds, that too all with related parties. These lapses are tantamount to turning a blind eye to the ruse that lay before them. The Auditors should know that transactions with related parties have high risk of fraud. The Auditors could not give any reply as to how they used the Internal Audit Reports while performing audit of CDGL.

106 Internal financial control over financial reporting is designed and implemented to prevent, and detect fraudulent transactions. However, based on the above analysis, we find that controls were totally absent in CDGL in release of supplier advances & loans, and banking transactions and there was total management override of controls in these areas. Any significant deficiencies or material weaknesses in internal controls must be revealed by the Auditors, but we find that instead of reporting their absence, the Auditors falsely reported that CDGL had adequate Internal Financial Controls with reference to financial statements and that these were operating effectively. The reply of the Auditors that they have provided disclaimer of opinion in this matter is factually incorrect as they had given an unmodified opinion, and this averment is tantamount to misrepresentation of fact in an adjudication proceeding under Section 132 (4) of the Act.

107 From the above analysis, we therefore hold that the Auditors have failed to perform the required statutory duties in accordance with the provisions of SA 200, SA 240, SA 315, SA 330 and Section 143(1)(b), 143(3)(e), 143(3)(i), 143(12) and failed to report violation of section 177 of the Act by CDGL.

C.6 Lapses in audit relating to capital advance given to Dark Forest Furniture Company Private Limited. (DFFCPL)-Rs 87.92 crores

108 The Auditors were charged with failure to exercise due diligence in audit of unusually high amount of capital advance given by CDGL to DFFCPL, a related party, for purchase of furniture & fixtures. Further, as per section 188 of the Act, approval of the Board of Directors ('BOD' hereafter) was required for entering into transactions for purchases of

furniture & fixtures from DFFCPL. There is no record in the Audit File that BOD of CDGL had granted such approval.

109 Further, the Audit Committee of CDGL had granted approval for purchases of fixed assets and grant of loans up to Rs 50 crores to DFFCPL during 2018-19. Whereas, as per Audit File, maximum advance given to DFFCPL was Rs 87.92 crores (on 31.12.2018), which was not only higher than the limit approved by the Audit Committee, but also substantially higher (279%) than the actual purchases of fixed assets for Rs 31.46 crores during the year. Thus, CDGL did not comply with section 177 of the Act as it had exceeded the limit approved by the Audit Committee for transactions with DFFCPL. Further, when CDGL was to purchase furniture of Rs 31.46 crores only, then why was advance of Rs 87.92 crores given? The Auditors should have exercised professional skepticism and should have performed additional audit procedures to identify and respond to the risk of material misstatement due to fraud. The Auditors failed to do so, and did not ask any question to Management or TCWG about disbursement of this abnormally high capital advance.

110 Further, Capital advance of Rs 75.03 crores to DFFCPL was outstanding on 31.03.2019, but only Rs 24.54 crores was shown in the Financial Statements. The Audit File shows that Rs 50.55 crores was converted from 'capital advance to DFFCPL' into 'loan to CCCW'. The Auditors were charged with not questioning or seeking justification for this conversion and not exercising due diligence while conducting audit of this capital advance, and thus violated SA 200, SA 240, SA 315, and SA 330.

Reply of the Auditors

111 The Auditors have denied the charge stating that CDGL was into coffee business, mainly through cafes and used to purchase furniture from DFFCPL in ordinary course of business. Accordingly, the Auditors have claimed that section 188 of the Act was not applicable on these transactions; that even though the transaction is beyond the limit approved by the Audit Committee, the same was carried out in the ordinary course of business and purchases were within the approved limit; and that since the advance to DFFCPL was covered by the general limit of Rs 4,000 crore approved by the company by special resolution, there is no non-compliance of section 177 of the Act.

112 The Auditors have further submitted that the amount of Rs.50.55 crores was paid to DFFCPL on behalf of CCCW. This amount was inadvertently accounted as capital advance to DFFCPL instead of advance to CCCW, and that the same was rectified later on. The transaction was in the ordinary course of business and in their opinion, there is no material misstatement in the said transactions.

Analysis of reply

113 The exemption under section 188 of the Act is applicable if transactions with related parties are entered on 'Arm's Length Basis'. Arm's length is an expression which is commonly used to refer to transactions in which two or more unrelated and unaffiliated parties agree to do business. In this case, the advance given to DFFCPL was without any agreement and

also unusual keeping in view the size of transactions with DFFCPL, therefore cannot be treated on 'Arm's length'. There is no working in the Audit File to show that the Auditors had performed any audit procedure to evaluate whether these transactions were at 'Arm's length'. Further, the Auditors have replied that the advance was within the general limit of Rs 4000 crores approved by the company, therefore there is no noncompliance with section 177 of the Act. In fact, the Audit Committee had approved limit of Rs 50 crores only for transactions with DFFCPL and actual advance provided to DFFCPL was higher than this limit. From this analysis, it is clear that advance was provided to DFFCPL by violating section 177 & 188 of the Act. We note that the Auditors have not given any reply about their evaluation of CDGL releasing an abnormal amount of Rs 87.92 crores to DFFCPL as compared to actual purchase of Rs 31.46 crores only.

114 The reply of the Auditors that advance of Rs 50.55 crores was provided to DFFCPL on behalf of CCCW is factually incorrect as concluded in the previous charge and also not logical in the absence of any such agreement with CCCW. There is no such record in the Audit File, which shows that this part of the reply is an afterthought of the Auditors to hide their failure to perform sufficient and appropriate audit procedure during performing audit of advance given to DFFCPL.

115 From the above analysis, it is inferred that the Auditors failed to exercise due diligence while conducting audit of capital advance. Accordingly, we find that the Auditors have violated SA 200, SA 240, SA 315 and SA 330 and not reported the noncompliance of section 188 and 177 of the Act.

D. OTHER NON-COMPLIANCES WITH LAWS AND STANDARDS

In addition to the major lapses covered under section C of the order, the Auditors were also charged with following lapses in the audit:

a) Failure to report non compliances with section 134(1) of the Act.
b) Failure to comply with SA 700, Forming an Opinion and Reporting on Financial Statements.
c) Failure to comply with SA 250, Consideration of Laws and Regulations in an Audit of Financial Statements.
d) Failure to comply with SA 260, Communication with Those Charged With Governance (TCWG) & SA 265, Communicating deficiencies in Internal Control to Those Charged With Governance and Management.
e) Failure to comply with SA 300, Planning an audit of Financial Statements.

Reply of the Auditors

116 The Auditors have denied their wrongdoings and professional misconduct in all the charges mentioned in the previous paragraph.

117 With respect to compliance with section 134(1) of the Act, the Auditors stated that they had obtained constructive evidence, in the form of receipt of signed copies of the financial statements, before they signed on the same and issued audit report thereon. Further

considering the 'Doctrine of Indoor Management', they had ensured the compliance with section 134(1) of the Act. They further stated that the company has complied with section 134(1) of the Act and the Auditor is not required to make any report on this issue.

118 With respect to compliance with SA 700, the Auditors have reiterated their submissions given in support of each charge and claimed that they had obtained reasonable assurance that the Financial Statements as a whole were free from material misstatements, whether due to fraud or error; and that they had provided appropriate opinion in the audit report in compliance with SA 700.

119 With respect to compliance with SA 250, the Auditors have stated that section 3 of the Prevention of Money Laundering Act 2005 ('PMLA' hereafter) and section 420 of the Indian Penal Code ('IPC' hereafter) are not applicable to the transactions mentioned in the SCN and that, there is no violation of SA 250.

120 With respect to compliance with SA 260 & 265, the Auditors have replied that observations, clarifications & conclusions were noted during the course of audit and the same were discussed later with Management/TCWG and significant matters were recorded in the Audit File. They have also referred to a Power Point Presentation which was finally presented in the Audit Committee Meeting.

121 With respect to compliance with SA 300, the Auditors have stated that they understood the terms of engagement and attached the engagement letter. They stated that detailed procedure adopted in each area was specified in the audit work paper titled 'work done' and this clubbed with the audit plan complied with the requirement of SA 300. They further stated that these documents state the scope & extent of audit procedure and were prepared based on their understanding of the company, its nature of activities, risk involved in each area and controls available to mitigate those risks.

Analysis of reply

122 As per section 134(1) of the Act, approval of the Financial Statements by the Board and its signing by the persons authorized by the Board are prerequisites before an auditor makes a report on such approved & signed financial statements. Further, the reliance on the "Doctrine of Indoor Management" is misplaced as this Doctrine is applicable to third parties, not having access to the internal records of a company. The Auditors should have obtained a certified copy of the Board resolution approving the Financial Statements and authorizing the Directors to sign the Financial Statements and should have kept the same in the Audit File before its assembly. The Auditors did not do the same. Thus, this charge is proved that the Auditors did not ensure compliance with section 134(1) of the Act by CDGL.

123 SA 700 - Based on our earlier findings on each charge in the preceding paragraphs it is clear that the replies of the Auditors are not satisfactory. By not taking into account the large-scale fraudulent transactions of huge amounts while making audit conclusions, the

Auditors violated SA 700 and failed to draw attention to the presence of material misstatements of Rs 7514.10 crores in the Financial Statements of CDGL. Thus, the charge that the Auditors violated SA 700 is proved.

124 Regarding SA 250, it was seen that CDGL had given loans of Rs 3,840.51 crores to a promoter owned entity viz MACEL, in the garb of Supplier Advance for coffee beans, despite the fact that the actual purchase of coffee beans from MACEL was Rs 1.13 crores only. Therefore, release of such an exorbitant amount to MACEL cannot be considered to be in the ordinary course of business. The outstanding amount receivable from MACEL on 31.03.2019 was Rs 287.32 crores. This was adequate proof of diversion of funds to promoter owned entity MACEL. Further, the loan of Rs 130.55 crores given to CCCW has ultimately gone to Kumar Hegde and never come back to CDGL, and its final use remained unknown. Its repayment was shown in records of CDGL by circulation of CDGL's own funds in a fraudulent manner which resulted in conversion of loan given to CCCW into loan given to MACEL. This is clear proof of diversion of funds to Kumar Hegde. Diversion of funds, structured circulation of money and round tripping of funds (as already discussed) are ample proof of cheating and dishonesty. In these fraudulent transactions, CDGL's funds have ultimately gone to the promoter-controlled entity and a private individual. Therefore, this is a clear case of money laundering as per PMLA, which the Auditors failed to report in the Independent Auditor's Report. Therefore, the charge that the Auditors have violated SA 250 is proved.

125 Regarding SA 260 & 265, a review of audit work papers quoted in the reply, show that these sheets do not relate to discussion with TCWG but relate to certain points and conclusions made by the Auditor. There is no record of any discussion with TCWG in the Audit File. Further, we could not even find the names of the members of TCWG with whom discussions were claimed to have been held, and dates of such discussions are also not mentioned in the Audit File. We note from the Audit File & reply of the Auditors, that they neither determined TCWG nor communicated with TCWG. Further, the power point presentation, purported to be made before the audit committee was prepared on 23.05.2019 i.e., one day before approval of Financial Statements, whereas as per SA 260, communication with TCWG is required to be done from start of audit till signing of Financial Statements. The Auditors have also not given any reply about compliance with SA 265. Accordingly, we find that the Auditors' reply is not satisfactory and, the charge that the Auditors have violated SA 260 and SA 265 is proved.

126 As per SA 300, an Audit plan should include nature, timing and extent of planned risk assessment procedures. The Audit plan available in the Audit File does not contain any details of planning relating to risk assessment procedures. The quality of performance of an audit largely depends upon the quality of audit strategy and audit plan. We find that the Auditors were deficient in developing an effective audit plan. Therefore, this charge is proved that the Auditors have violated SA 300.

Failure to comply with SA 210, Agreeing the terms of audit engagements, SA 510, Initial Audit Engagements - Opening Balances and Failure to comply with SA 720, The Auditor's Responsibilities relating to Other Information.

127 The Auditors were charged with non-compliance with SA 210, SA 510 and SA 720. Having considered the replies, we drop these charges.

E. OMISSION AND COMMISSION BY THE AUDIT FIRM

In addition to being jointly responsible for the lapses in audit performed by the EP and other members of the engagement team, the Audit Firm was charged with omissions and commissions solely attributed to it. These are discussed below.

Lapses in constitution of Engagement Team (ET) and assigning responsibility among ET members (Additional Lapse on the part of the Audit Firm only)

128 The Audit Firm was charged with lapses in constitution of ET and lapses in assigning responsibility of this audit engagement among ET members. As per audit plan, the ET was constituted as follows:

Table-4

Sr No	Name	Role assigned
1	CA Sundaresha A S	Signing Partner
2	CA Pradeepa Chandra C	External Reviewer
3	CA Chaitanya G	External Reviewer
4	CA Madhusudan	Engagement Partner
5	CA Pranaav Ambekar	Engagement Partner
6	X	Article Assistant
7	Y	Article Assistant

129 As per audit plan, there were two external reviewers in the team. As per definition of 'Engagement Team' ('ET' hereafter) given at para 7(d) read with definition of 'Personnel' at para 7(l) of SA 220, ET may consist of partners, staff and experts contracted by the firm in connection with CDGL audit. External reviewers mentioned in the audit plan are neither partners/staff of the Audit Firm nor experts contracted by the firm, so they cannot be treated as members of ET.

130 Further, as per definition at para 6(c) & (d) of SQC 1 and para 7(b) & (c) of SA 220, Engagement Quality Control Reviewer ('EQCR' hereafter) should have authority to objectively evaluate, before the report is issued, the significant judgments the engagement team made and the conclusions they reached in formulating the report. It is observed from the Audit plan that the external reviewers in this engagement did not evaluate the significant judgements and conclusions in formulating the audit report. They thus have not performed the role attributable to an External Reviewer as conceived in SA 220 & SQC 1.

131 Para 42 of SQC 1 requires the Audit Firm to assign responsibility for each engagement to 'an engagement partner'. The firm should establish policies and procedures requiring that:

(a) The identity and role of the engagement partner are communicated to key members of the client's management and those charged with governance.

(b) The engagement partner has the appropriate capabilities, competence, authority and time to perform the role; and

(c) The responsibilities of the engagement partner are clearly defined and communicated to that partner.

132 As per Table-4, the Audit firm had bifurcated the responsibility of one engagement among three partners (one signing partner and two engagement partners), which is against the principle of SQC-1 resulting in noncompliance with SQC 1. Further, there is no term like 'signing partner' in any of the SAs. The responsibilities of each partner have not been clearly defined in the audit plan. Designations were recorded for the areas to be covered like Article Assistant, Engagement Partner, External Reviewer, Junior Partner, Senior Partner, Audit Assistant and Partner. Name of the persons are not recorded, making it impossible to know who performed which audit activity. Further, there were no members in the engagement team with some designations used in audit plan like Junior Partner, Senior Partner and Audit Assistant. In light of the foregoing details, the SCN charged the Audit Firm with assigning responsibility of audit engagement in a very casual manner without clearly defining the responsibilities among engagement team members thereby laying a weak foundation of audit engagement.

Reply of the Auditors

133 While denying the charge, the Audit Firm has submitted that the word signing partner is used in their office to identify the person going to sign the Financial Statements after reviewing the work done by engagement team. Therefore, the term 'signing partner' was used without reference to any SA. They have further clarified that CA Sundaresha A S, was partner in charge of engagement team and CA Madhusudan and CA Pranaav Ambekar were partners who executed day to day audit procedures and discussed the findings with CA A. S. Sundaresha. The Audit Firm stated that the word senior partner is used to specify the more experienced partner and others are referred as junior partners. The words article assistant and audit assistant are used interchangeably. These terms are generally used in their profession.

134 While citing para 3 of SQC 1, the Audit Firm replied that there is no bar on deputing more than one engagement partner to a particular engagement; that bigger companies have joint Auditors and each joint auditor has its own engagement partner, which gives support that an engagement can have multiple engagement partners.

Analysis of reply

135 We notice that the term 'Engagement Partner' (EP) is defined in SQC 1 as "*the partner or other person in the firm who is a member of the Institute of Chartered Accountants of India and is in full time practice and is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body*". We notice from this definition that EP has to take complete responsibility for the engagement, its performance, and for the audit report. Further, we notice from the reply that Madhusudan & Pranaav were doing only day to day work whereas responsibility of engagement was on Sundaresha, who signed the Audit Report. Though as per SQC 1, one engagement can have only one

EP, in this case the audit firm, appointed one signing partner and two EPs. CA A. S. Sundaresha was appointed signing partner and Madhusudan and Pranaav were shown as EPs in the audit plan. Madhusudan and Pranaav have not disputed this position in their reply. Therefore, we hold that CA A. S. Sundaresha, as well as Madhusudan and Pranaav were members of engagement team and are jointly and severally responsible for all lapses. The audit firm is also responsible for lack of due diligence in this regard for constituting their Engagement Team with multiple EPs in violation of SQC 1.

136 The Audit Firm did not furnish any reply relating to "External Reviewers" mentioned in the audit plan. There is no concept of external reviewer in the Standards. 'External' person can be associated with the engagement team in three ways; (a) An Auditor can use the work of an auditor's expert if expertise in a field other than accounting or auditing is necessary to obtain sufficient appropriate audit evidence. Both the so-called external reviewers (CA Pradeepa Chandra C. and CA Chaitanya G. Deshpande) are not covered in this definition as there is no record in the Audit File that they had performed any expert job in field other than accounting and auditing (SA 620) (b) An Auditor can engage external person as EQCR for evaluation of the significant judgements and conclusions in formulating the audit report, as specified in para 6(c) & (d) of SQC 1 and para 7(b) & (c) of SA 220. It is neither the claim of the Auditors that CA Pradeepa Chandra C. and CA Chaitanya G. Deshpande had been engaged as EQCRs, nor is it evident from the Audit File that they performed the tasks of EQCRs. (c) An Auditor may consult external persons on difficult or contentious matters. In this case no such consultation was made with these so-called external reviewers.

137 Both these external reviewers i.e., CA Pradeepa Chandra C. and CA Chaitanya G. Deshpande (both Partners of M/s Sundaresha & Associates) were involved in 47 audit areas out of 67 audit areas identified in the audit plan available in the Audit File. Out of these 47 audit areas, 44 audit areas were not reviewed by any partner of M/s ASRMP & Co. This shows that they were not only supervising day to day audit work being performed by the article assistants but were practically doing a major part of the audit. This shows that the audit of CDGL was performed not merely by M/s ASRMP & Co. but by M/s Sundaresha & Associates also. But to hide this fact, both partners of M/s Sundaresha & Associates were named as external reviewers in the audit plan. Thus, the Audit Firm failed to maintain independence as it engaged partners of a sister concern. This also strengthen our findings at para 28 & 29 of this order that both the firms are not independent of each other.

138 We observe from the reply that there was no clarity as to who was the EP in this Audit and who was required to take ultimate responsibility for the Audit Engagement. This led to a situation where the entire audit was conducted in a perfunctory manner, with a majority part of the audit being done by partners of another Audit Firm and no single EP taking the ultimate responsibility of the audit engagement. This has adversely affected the performance of audit engagement as is evident from lapses pointed out in the preceding paras. This establishes the charge of lapses by the Audit Firm in constitution of the engagement team.

Responsibility of the Audit Firm for the audit work done by the Engagement Team

139 In addition to lapses in constitution of the engagement team the Audit Firm was also charged with various omissions and commissions attributed to the Auditors in section C and D above. Para 2 of SA 220 and para 3 of SQC 1, stipulate that Quality Control Systems, Policies and Procedures are the responsibility of the Audit Firm. The Audit Firm was charged with failure to establish and maintain a system of quality control to provide it with reasonable assurance that:

a) The firm and its personnel comply with professional standards and regulatory and legal requirements; and

b) The reports issued by the firm or engagement partners are appropriate in the circumstances.

140 Responding to the charge, the Audit Firm stated that:

a) They have issued audit report after taking into account the provisions of the Act, Ind AS prescribed u/s 133 and Standards on Auditing u/s 143(10) of the Act. They have taken management representation letter for various aspects relating to this engagement and reported u/s 143(2) of the Act.

b) They rely on the replies in forgoing para in respect of NFRA's observation on alleged non-compliance with accounting and auditing standards.

c) They confirmed the "Report on other legal and regulatory requirements" of audit report in compliance to section 143(3) of the Act.

d) Section 143(4) is not applicable as there were no negative answer or answer with a qualification.

e) They have complied with the Auditing Standards {section 143(9) of the Act}.

f) In compliance with section 143(12) of the Act, the Audit Firm replied that there is no fraud identified by them, hence there is no reporting requirement to the Central Government.

g) The Firm has a Quality Control Manual in place and the same has been adhered to while conducting the audit of CDGL.

h) Based on the facts and circumstances they had complied with the applicable Standards on Auditing, SQC 1 and ethical requirements. Accordingly, there was no act of omission and commission on their part, which will have impact on their audit opinion.

141 Statutory Audits are performed by Engagement Team on behalf of the Audit Firm appointed as statutory auditor under section 139 of the Act. The audit reports are signed on behalf of the Audit Firm and, therefore, the Audit Firm remains responsible for all the acts of omissions and commissions by the Engagement Team as well as for violation of duties and responsibilities specifically required of the Audit Firm. M/s ASRMP & Co. was appointed as the Statutory Auditor of CDGL for FY 2018-19. We have already considered in the earlier paragraphs, the point wise replies of the Audit Firm and determined that the Audit Firm and the Engagement Team have been grossly negligent in ensuring that the Audit of CDGL is performed in accordance with the applicable laws and regulations and the Audit Report issued on behalf of the Audit Firm was not appropriate. Therefore, as per the standards and the legal provisions mentioned above, in addition to the Engagement

Team, the Audit Firm is also responsible for the lapses discussed in the preceding paragraphs of this Order.

F. POINTS OF LAW RAISED BY THE AUDITORS

142 **The** Auditors have stated that the accounting and auditing standards that have been notified as on date, are not on the recommendations of NFRA and thus issuance of SCN u/s 132(4) of the Act is beyond the powers of NFRA. This contention of the Auditors is not acceptable. The NFRA's authority to monitor and enforce compliance with the accounting and auditing standards is derived from section 132 of the Act. All the Accounting Standards and Auditing Standards have the force of law and are required to be mandatorily complied with from the date of their respective applicability, while conducting statutory audits.

143 The Auditors have stated that the issue of SCN is based on belief/suspicion and not on conclusive evidence. We do not agree with this. The SCN was based on facts of the matter and the documents in the Audit File submitted by the Auditors. The words 'believe/suspicious' were used in the SCN to convey a prima-facie view in the SCN, to be further probed and established with an open mind after offering an opportunity in the interest of natural justice to the Auditors to rebut the charges and provide their reply to the SCN. No conclusions were reached before analysis of the reply of the Auditors.

144 There is also no truth in the Auditors contention that no investigation was conducted by NFRA. The SCN was issued after duly examining the material contained in the Audit File and other materials on record in accordance with Rule 11 of the NFRA rules 2018 and the conclusion reached in this Order are based on due consideration of the Auditors' replies on each point of charge in the SCN.

G. ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE AUDITORS

145 As discussed in the foregoing paragraphs, the Auditors have made a series of serious departures from the Standards and the Law, in their conduct of the audit of CDGL for FY 2018-19. Based on above discussion, it is proved that the Auditors had issued unmodified opinion on the Financial Statements without any basis. The poor quality of Audit, tampering of Audit File, the cover up in terms of submission of additional documents that did not exist in Audit File, incomplete documentation and attempt to mislead through false and evasive replies further compound the professional misconduct on the part of the Auditors. Based on the foregoing discussion and analysis, we conclude that the Auditors have committed Professional Misconduct as defined under Section 132 (4) of the Companies Act 2013 in terms of section 22 of the Chartered Accountants Act 1949 (CA Act) as amended from time to time, and as detailed below:

i. The Auditors committed professional misconduct as defined by clause 5 of Part I of the Second Schedule of the CA Act, which states that an auditor is guilty of professional misconduct when he *"fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such*

financial statement where he is concerned with that financial statement in a professional capacity".

This charge is proved as the Auditors failed to disclose in their report the material non-compliances by the Company as explained in Section - C-3 to C-6 and Section - D (a)&(b) above.

ii. The Auditors committed professional misconduct as defined by clause 6 of Part I of the Second Schedule of the CA Act, which states that an EP is guilty of professional misconduct when he *"fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity*".

This charge is proved as the Auditors failed to disclose in audit report the material misstatements made by the Company as explained in Section - C-3 to C-6 and Section - D (a)&(b) above.

iii. The Auditors committed professional misconduct as defined by clause 7 of Part I of the Second Schedule of the CA Act, which states that an EP is guilty of professional misconduct when he "*does not exercise due diligence or is grossly negligent in the conduct of his professional duties".*

This charge is proved as the EP failed to conduct the audit in accordance with the SAs and applicable regulations, failed to report the material misstatements in the financial statements arising from diversion of funds & circulation of funds and failed to report non-compliances made by the Company, as explained in Section C and D above.

iv. The Auditors committed professional misconduct as defined by clause 8 of Part I of the Second Schedule of the CA Act, which states that an EP is guilty of professional misconduct when he "*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".*

This charge is proved as the Auditors failed to conduct the audit in accordance with the SAs and applicable regulations as well as due to his total failure to report the material misstatements and non-compliances made by the Company in the financial statements, as explained in the Section C-3 to C-6 and Section - D above.

v. The Auditors committed professional misconduct as defined by clause 9 of Part I of the Second Schedule of the CA Act, which states that an EP is guilty of professional misconduct when he "*fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances*".

This charge is proved since the Auditors failed to conduct the audit in accordance with the SAs as explained in the Section C and D above.

H. ADDITIONAL ARTICLES OF CHARGES OF PROFESSIONAL MISCONDUCT BY THE AUDIT FIRM

146 In addition to above, the Audit Firm has committed Professional Misconduct as defined Section 132 (4) of the Act by failing to exercise due diligence and being grossly negligent in the conduct of professional duties in respect of matters explained at Section - E above

as the Audit Firm failed to exercise due diligence and was grossly negligent in the conduct of professional duties, thus, violated SQC 1.

147 Therefore, we conclude that all the charges of professional misconduct in the SCN (Except charges relating to noncompliance with SA 210, SA 510 & SA 720, which have been dropped) stand proved based on the evidence in the Audit File, the Audit Report dated 24.05.2019 issued by the EP on behalf of the Firm, the submissions made by the Auditors and the Financial Statements of CDGL for the FY 2018-19.

148 It will be useful to look at how Audit regulators in other countries have dealt with similar violations that we have observed in this case particularly with regard to diversion of funds through round tripping among Related Parties, absence of internal financial control, lack of independence, failure to provide impairment of loans and failure to write off non-recoverable loans etc.

149 The PCAOB[18] in matters of diversion of funds to related parties on the pretext of purchase of material, observed that "*The transactions between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese purchasing agent ("Agent") involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to buy equipment and materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments some in unusual same-day, round-trip transfers it did not return most of them".... "By failing to adequately respond to the known fraud risks, Marcum's engagement team breached its duty to perform the Audits with the due professional care and professional skepticism required by PCAOB standards. The team also failed to adequately understand the business rationale (or the lack thereof) for the significant unusual transactions and failed to obtain sufficient appropriate audit evidence to support Marcum's opinion on the Issuer's financial statements*". For this misconduct, PCAOB censured Audit firm Marcum LLP ("Marcum"); imposed a civil money penalty of $250,000 on Marcum; prohibiting Marcum from audit works for a period of three years. PCAOB also imposed a penalty of $25,000 on the Engagement partner John E. Klenner besides barring him from being an associated person of a registered public accounting firm.

150 Similarly, failures to perform audit procedures and exercise professional skepticism in related party transactions and internal control over financial reporting have invited serious action by audit regulators in other jurisdictions too. For example, in case of Cheryl L. Gore, CPA and Stanley R. Langston, CPA, PCAOB[19] had observed that "*Gore failed to obtain sufficient appropriate audit evidence and to perform sufficient procedures concerning whether Issuer A's financial statements accurately disclosed its related party transactions"..... "Gore failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with Issuer A's identification, accounting, and disclosure of related party relationships and transactions..... Specifically, as part of her risk assessment procedures, she was required to obtain an understanding of the design and implementation of Issuer A's internal control*

[18] PCAOB Release No. 105-2020-012 and PCAOB Release No. 105-2020-013 both dated 24.09.2020.
[19] PCAOB Release No. 105-2021-020 dated 14.12.2021.

over financial reporting ("ICFR") in connection with related parties, to evaluate the design of those controls that were relevant to the audit, and to determine whether those controls had been implemented. Gore failed to perform any of these procedures during the 2016 Audit"". This case resulted in debarment and imposition of monitory penalty on the auditors.

151 In a matter relating to impairment allowance for loans in the case of Grant Thornton LLP, PCAOB[20] had observed "*Grant Thornton, among other things, failed to exercise due professional care, including appropriate professional skepticism, and failed to obtain sufficient appropriate audit evidence concerning the reported value of Bancorp's net loans, the effectiveness of Bancorp's controls relating to its allowance for loan ..... a known significant risk and significant accounting estimate. As a result of its failures to perform the audit in conformity with PCAOB standards, Grant Thornton failed to obtain sufficient appropriate audit evidence to support its audit opinions on Bancorp's financial statements and ICFR".* For misconducts including this one, PCAOB censured Grant Thornton LLP ("Grant Thornton"), imposed on Grant Thornton a civil money penalty in the amount of $1,500,000; and required Grant Thornton to undertake certain remedial actions.

152 In cases relating to independence of auditors, PCAOB[21] has penalized audit firms and their partners. In Marcum Bernstein & Pinchuk LLP case, PCAOB observed "*an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement.*"..... "*.....MarcumBP failed to implement, effectively apply, and appropriately monitor quality control policies and procedures sufficient to provide reasonable assurance concerning the Firm's independence*". In this case, PCAOB censured audit firm, imposed monetary penalty and required audit firm to undertake a review of its policies, procedures, staffing, and training with respect to auditor independence.

153 Similarly, in AWC (CPA) Limited, WONG Chi Wai, CPA, and WONG Fei Cheung, CPA, PCAOB observed *"As the engagement partner, Albert Wong was responsible for AWC's compliance with independence requirements. Although Albert Wong knew at the time of the Kandi 2012 Audit that Mui had accepted a Power-of-Attorney from Kandi in order to handle the New York State agency matter, he failed to evaluate whether Mui's activities on Kandi's behalf constituted prohibited non-audit services that would impair Mui's independence, as well as AWC's and its associated persons. Albert Wong took, or omitted to take, actions during the Kandi 2012 Audit, that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violation of independence requirements, in contravention of PCAOB Rule 350".* For misconducts including independence violations, PCAOB censured audit firm & partner, revoked the audit firm's registration & barred partner from being an associated person of a registered public accounting firm, and imposed a civil money penalty on the audit firm and the partner.

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[20] PCAOB Release No. 105-2017-054 dated 19.12.2017.
[21] PCAOB Release No. 105-2016-016 dated 18.05.2016 and PCAOB Release No. 105-2019-022, PCAOB Release No. 105-2019-023 both dated 10.09.2019.

I. PENALTY & SANCTIONS

154 Section 132(4) of the Companies Act, 2013 provides for penalties in a case where professional misconduct is proved. The seriousness with which proved cases of professional misconduct are viewed is evident from the fact that a minimum punishment is laid down by the law.

155 Independent Auditors of Public Limited Companies[22] serve a critical public function of enabling the users of Audited Financial Statements to take informed economic decisions. Quality audits bolster stakeholder's confidence in the credibility of financial reporting.

156 But stakeholder's confidence is not automatic. Trust must be earned, and it must be preserved. Auditors' Integrity and Diligence are of utmost importance to preserve the trust of users in Auditing Profession, which plays an important role in the economic development of India.

157 In the instant case, the Auditors, chose to preserve their professional relationship with the promoters of the auditee company, instead of discharging their statutory duty to protect public interest by exercising professional skepticism and questioning the promoters' dubious activities and transactions leading to diversion of shareholders and stakeholders' money on a large scale. Had they performed the required audit procedures with due professional skepticism, many of the dubious transactions would have been perhaps detected. But by failing to do so, they foreclosed this possibility causing immense harm to shareholders and stakeholders.

158 Further, when NFRA called for the Audit File for examination, the Auditors adopted delaying tactics and then tampered with the Audit File. This is extremely serious because it obstructs the NFRA's ability to protect public interest. This case underlines the need for all Auditors regardless of seniority to be aware of their individual responsibility to act honestly and with integrity in all areas of their work.

159 These Auditors were required to ensure compliance with Standards on Auditing, Laws and Regulations to achieve the necessary audit quality and lend credibility to Financial Statements to facilitate its users. As detailed in this Order, substantial deficiencies in Audit, abdication of responsibility and inappropriate conclusions on the part of the Auditors establish their professional misconduct and lack of due diligence. Despite being qualified professionals, the Auditors have not adhered to the Standards and have thus not discharged the duty cast upon them.

[22] As defined in Rule 3 of NFRA Rules 2018

160 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 ten lakh rupees, but which may extend to ten times of the fees received, in case of firms;

(B) debarring 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.

161 As per information furnished by M/s Sundaresha & Associates vide letter dated 10.09.2022 and M/s ASRMP & Co. vide letter dated 29.09.2022, the statutory audit fees of CDGL for 2018-19 was Rs [redacted], besides M/s Sundaresh & Co. received Rs [redacted] as tax audit fees from CDGL. Further, M/s ASRMP & Co., M/s Sundaresha & Associates and M/s Sundaresh & Co. received total professional fees of Rs [redacted] from Coffee Day Group entities and promoters in respect of services rendered for FY 2018-19. Total professional fees received by these three related audit firms during FY 2018-19 was Rs [redacted]. CA A. S. Sundaresha has 81% share, CA Madhusudan U. A. has 6% share and CA Pranaav G. Ambekar has 6 % share in the profit of M/s ASRMP & Co.

162 Considering the proved professional misconduct and keeping in mind the nature of violations, principles of proportionality and deterrence against future professional misconduct, we, in exercise of powers under Section 132(4)(c) of the Companies Act, 2013, hereby order:

a) Imposition of a monetary penalty of Rs One Crore only upon M/s ASRMP & Co. In addition, M/s ASRMP & Co. is debarred for a period of two 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) Imposition of a monetary penalty of Rs Ten Lakhs only upon CA A. S. Sundaresha. In addition, CA A. S. Sundaresha is debarred for a period of five 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.

c) Imposition of a monetary penalty of Rs Five Lakhs only upon CA Madhusudan U A. In addition, CA Madhusudan U A is debarred for a period of five 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.

d) Imposition of a monetary penalty of Rs Five Lakhs only upon CA Pranaav G. Ambekar. In addition, CA Pranaav G. Ambekar is debarred for a period of five 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.

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

Signed
(Dr Ajay Bhushan Prasad Pandey)
Chairperson

Signed
(Dr Praveen Kumar Tiwari)
Full-Time Member

Signed
(Smita Jhingran)
Full-Time Member

Authorised for issue by the National Financial Reporting Authority,

(Vidhu Sood)
Secretary

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

Date: 12.04.2023
Place: New Delhi

To,

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Copy To: -

(i) Secretary, Ministry of Corporate Affairs, Government of India, New Delhi.
(ii) Securities and Exchange Board of India, Mumbai.
(iii) Secretary, Institute of Chartered Accountants of India, New Delhi.
(iv) Coffee Day Global Limited, Bengaluru.
(v) IT-Team, NFRA for uploading the order on the website of NFRA.