

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH-III (2019-20)]**

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

**Findings under Rule 18(17) read with 19(2) of the Chartered Accountants  
(Procedure of Investigations of Professional and Other Misconduct and  
Conduct of Cases) Rules, 2007**

**File No. PR-361/2014-DD/378/2014-DC/735/2017**

**In the matter of :**

**Shri K S Kaushik**

Deputy Director (FA)  
SFIO, Ministry of Corporate Affairs  
Govt. of India, 2<sup>nd</sup> Floor  
Paryavaran Bhawan  
CGO Complex, Lodhi Road  
**NEW DELHI – 110 003**

**.....Complainant**

**Versus**

**CA. Surinder Kumar Bansal (M.No.014301)**

Partner, M/s Bansal & Co (FRNo.001113N)  
A-6, Maharani Bagh  
**NEW DELHI – 110 065**

**.....Respondent**

**Members Present:**

**CA. Prafulla Preme Sukh Chhajed, Presiding Officer**  
**Shri Ajay Mittal, Member (Govt. Nominee)**  
**CA. Manu Agrawal, Member**

**Date of Final Hearing: 04<sup>th</sup> April, 2019 (Decided on 15<sup>th</sup> January, 2020)**

**Place of Final Hearing: New Delhi**

**Parties Present:-**

- (1)Ms. Nidhi Agarwal, Law Consultant - Complainant's Representative**
- (2)Ms. Deepmala Bagri, Assistant Director, SFIO – from Office of the Complainant**
- (3)Ms. Smriti Chaturvedi, Advocate – Counsel for Complainant**
- (4)CA. Surinder Kumar Bansal – Respondent**
- (5)CA. Indra Bansal & CA. (Dr.) D. S. Rawat – Counsels for Respondent**

**Allegations of Dy. Director (FA) (SFIO), the Complainant:**

1. **Shri K. S. Kaushik, Deputy Director (FA), SFIO, Ministry of Corporate Affairs New Delhi** (hereinafter referred to as the “**Complainant**”) has filed complaint in Form ‘I’ dated 25<sup>th</sup> November, 2014 (**C-1 to C-419**) against **CA. Surinder Kumar Bansal (M.No.014301), Partner, M/s Bansal & Co (FRNo.001113N), New Delhi** (hereinafter referred to as the “**Respondent & Respondent firm**”). The background in brief in respect of the allegations raised by the Complainant in his complaint against the Respondent is as under:-

1.1 The Government of India, Ministry of Corporate affairs ordered an investigation into the affairs of M/s Information Technologies (India) Limited (**hereinafter referred to as ITIL**) and the SFIO conducted the investigation and submitted the investigation report to the Central Government, Ministry of Corporate Affairs on 31<sup>st</sup> August 2010. In its Investigation report, it recommended disciplinary proceedings against the Respondent for his alleged professional misconduct. As per the investigation conducted by SFIO, the Respondent firm was the Statutory Auditor of the ITIL for the relevant period i.e. from 1998-99 to 2001-02 represented through the Respondent being its partner who as per it, did not take necessary steps and instructions as required and failed to point out the possible irregularities in the maintenance of the books of account in its Audit reports as discussed in the following paragraphs:

**Against the aforesaid background, the charge alleged against the Respondent is as under:**

1.2 It was alleged that the Respondent, who was the Statutory Auditor of the ITIL during the relevant period i.e. from 1998-1999 to 2001-2002 had given an unqualified audit opinion for the financial years 1998-99 to 2000-01. It was stated that the financial statements for the financial year 1998-1999 with the Audit Report thereon was scrutinized and it was noted that

buildings/shares were pending for transfer in the name of the Company and same were disclosed by way of notes given in the schedules. The said note was continued in the Audit Reports of the Company for the Financial Year ended on 1999-2000 and 2000-2001 also but was deleted in subsequent Financial Years and the said fact was revealed when one of such property situated at Gurgaon was donated by ITIL in the Year 2006 (not registered in the name of the ITIL) to Sadhana Foundation where the promoters /ex-directors of ITIL were alleged to be the trustees. Thus, it was alleged that the Respondent had failed to report such deletion in his audit report and thus alleged to have neglected professional conduct while auditing the Final Accounts of the ITIL for financial years 1998-99 to 2001-2002 and had shown a gross negligence in performing his duties as Statutory Auditor.

**Proceedings:**

2. At the time of hearing on 04<sup>th</sup> April, 2019, the Committee noted that since the matter was fixed for the first time, the Complainant as well as the Respondent were put on oath. On being asked whether the Respondent pleaded guilty, the Respondent pleaded not guilty. The Committee, thereafter, proceeded ahead with the hearing in the matter. The Counsel for the Respondent made his submissions in the matter. The Committee, thereafter, examined the Respondent. The Committee sought certain clarification from the Counsel of the Complainant.

The Counsel for the Respondent made her final submissions in the matter. After hearing both the parties, the Committee directed the Respondent to submit certain documents along with his written submissions within 10 days from the date of hearing with a copy to the Complainant so that latter may submit its counter submissions within next 10 days from the date of receipt of the written submissions. Accordingly, the case was heard by the Committee and judgment was reserved.

3. On 15<sup>th</sup> January, 2020, the Committee noted that the Respondent vide his letter dated 8<sup>th</sup> April 2019 submitted his written submissions which were considered by it along with the other documents/information available on record. Accordingly, the Committee decided the matter on merits.
4. The Committee noted that the Respondent vide letter dated 15<sup>th</sup> May, 2018 made submissions wherein he pointed out that the complaint was made against the Firm "Bansal & Co" and not against the Respondent, so the complaint was wrongly registered against him and therefore the extant complaint as per the Respondent was not processed in accordance with the mandatory procedures laid down under the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee, in this regard perused the copy of Form I,(C-1) filed by the Complainant and noted that in Para(2) of Form 'I', beside the name and registration number of the Firm, the name and the membership number of the Respondent was duly mentioned, therefore it was viewed that matter was rightly treated as Complaint against the Respondent who was then partner and was duly representing the Respondent firm. Thus, the Committee was of the opinion that in exercise of the authority conferred by Rule 8(1)(a) of Chartered Accountants(Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Director (Discipline) rightly proceeded in the matter. Hence, objection of the Respondent with respect to Rule 8 was ruled out by the Committee and accordingly, decided the case on merits.

#### **Findings of the Committee:**

5. The Committee noted that in the extant matter, the Director (Discipline) while forming his prima facie opinion under Rule (9) of the CA Rules 2007 had held the Respondent prima facie Not Guilty for the alleged misconduct which was placed before the Board of Discipline (herein after referred to as **Board**) for its consideration. The Board, at its meeting held on 25<sup>th</sup> October

2017 on consideration of the same, did not agree with the prima facie opinion of the Director and was of the view that since the value of building i.e. Rs.340.20 Million and was pending for transfer in the name of the Company was material, therefore, the said fact should have been disclosed in the Financial Statement of the Company for the subsequent F.Y. i.e. 2001-02 also and accordingly, referred the matter to the Disciplinary Committee to proceed further. In view of the above the Committee decided to proceed in the matter. The case was heard and decided upon. The Committee gave its findings as under:

6. The Committee noted that in the extant matter, it was alleged against the Respondent that he was the statutory auditor of ITIL and its subsidiary Companies for the Financial Years 1998-1999 to 2001-2002 and had given an unqualified audit opinion. It was stated that upon scrutinization, it was noted that for the financial year 1998-1999 **(C-293)**, the buildings/shares were pending for transfer in the name of the Company and same were disclosed by way of notes given in the schedules. The said note was continued in the financial statements of the Company for the Financial Year ended on 1999-2000 and 2000-2001 **(C-364)**, but was allegedly deleted in financial statements **(C-327)** for subsequent Financial Years. Thus, the fact that property was not registered in the name of the ITIL was concealed by the Respondent in his report in connivance of the management of ITIL.
7. The Committee noted the submission of the Respondent that the prime responsibility to prepare and present the financial statements is that of the management and the auditor had no role, whatsoever, in the preparation of the accounts. The auditors are expected to report in accordance with the provision of the law. As regard the note regarding the buildings pending transfer in the name of the Company, he stated that the same was given for the years in question and its non-disclosure as such would have made also no consequences as long as the Accounting treatment and disclosure of assets were correctly made. He further stated that since there was no

specific requirement to make any further disclosure in the Notes to the Accounts, accordingly, it did not require any qualification / clarification in the Audit Report. He further stated that the true and fair issue of the Balance Sheet and profit and Loss Account did not get vitiated irrespective of the presence/absence of Note relating to the property pending registration in favour of the Company, so long as the amounts were properly included under the head of "Fixed Assets".

8. The Committee in this regard perused the financial statements of the Company for the F.Y. 2001-02 brought on record by the Respondent in pursuance of the directions of the Committee and noted that the same was included in the notes to accounts with regard to the buildings/flats that were pending to be registered in the name of the company as well as ~~and~~ in the audit report issued by the Respondent. The relevant extract of said notes to accounts and that of Audit Report is-reproduced as under:-

**Notes to the Accounts-Note No. B 10 of Schedule "M"**

*a) The Company had purchased building/flats of Rs. 69638.90 thousands in the year May 1999 as the possession and registration were pending in the name of the Company and seller has also not complied with terms and condition of the agreement, therefore the same have been surrendered to the seller and incurred a loss of Rs 7494.53 Thousands"*

**Audit Report 2001-02**

*"2 f) We drew attention to Note No 3 of Notes to Accounts (Schedule "M") regarding writing off of intangible assets amounting to Rs.2577390 thousands and Human Resources valuation amounting to Rs. 1678240 thousand and Note No 9 of Notes to Accounts (Schedule "M") for investments in foreign subsidiaries and diminution in the value of these investments and Note No 10 of Notes to accounts(Schedule "M") for sale of fixed assets and subject to ....."*

9. The Committee further noted from the audit report issued by the Respondent for F.Y. 2006-07, the year in which the property was donated to

the charitable trust that the Respondent had given an adverse audit opinion while drawing attention to Note no 16 in Notes to Accounts for donation of a building having book value of Rs. 123,592 thousand to charitable educational trust as per the altered object clause of the Company. The Committee was thus of the view that the Respondent has duly drawn attention in his audit report to the fact that the building of the Company was donated to the charitable trust while giving an adverse opinion. It was viewed that preparation of financial statements is the responsibility of the management and that the notes to Accounts form an integral part of financial statements. Further, the role of an auditor is limited to only give opinion on such financial statements based on verification/audit done by him. In case, if the matter has been reported in his audit report then no misconduct on part of the Respondent is attributable in this respect. Accordingly, the Respondent was held not guilty with respect to charge raised in the extant case.

**Conclusion:**

10. Thus, in conclusion, in the opinion of the Committee, the Respondent is **NOT GUILTY** of Professional Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule and Clauses (7) and (8) of Part I of the second Schedule to the Chartered Accountants Act, 1949.
11. The Committee, accordingly, passed orders for closure of this case against the Respondent.

**Sd/-**  
**CA. Prafulla Premasukh Chhajed**  
**Presiding Officer**

**Sd/-**  
**Shri Ajay Mittal**  
**Member (Govt. Nominee)**

**Sd/-**  
**CA. Manu Agrawal**  
**Member**

**Date: 3<sup>rd</sup> February, 2020**  
**Place: New Delhi**