

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-149/2016-DD/168/16-DC/667/2017

In the matter of:

Shri Saud Ahmad,
Joint Director (Legal & Prosecution),
Govt. of India, Ministry of Corporate Affairs,
Serious Fraud Investigation Office,
2nd Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
NEW DELHI – 110 003

.....Complainant

Versus

CA. Anil Kumar Singhal (M. No.501869)
M/s Singhal Singhal & Co (FRNo.019140N),
Chartered Accountants,
D-55, 1st Floor, Mahendra Enclave, Ring Road,
DELHI – 110 033

.....Respondent

Members Present:

CA. Prafulla Preme Sukh Chhajed, President
Smt. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)
CA. Debashis Mitra, Member
CA. Manu Agrawal, Member

Date of Final Hearing: 28th May, 2019

Place of Final Hearing: New Delhi

Parties Present: -

- 1. Ms. Deepmala Bagri, Asstt. Director (Law) – the Representative of the Complainant Department**
- 2. Ms. Nidhi Aggarwal, Law Consultant – the Representative of the Complainant Department**
- 3. Ms. Smrati Chaturvedi, Advocate, ACGC, Union of India – Counsel for the Complainant Department.**
- 4. CA. Anil Kumar Singhal – Respondent**
- 5. CA. C. V. Sajan – Counsel for Respondent**

Allegations of SFIO, the Complainant:

1. **Shri Saud Ahmad**, Joint Director (Legal & Prosecution), Govt. of India, Ministry of Corporate Affairs, SFIO, New Delhi (hereinafter referred to as the “**Complainant**”) has filed complaint in Form ‘I’ dated 6th June, 2016 (**C-1 to C-281**) against **CA. Anil Kumar Singhal (M. No.501869)**, M/s Singhal Singhal & Co (FRNo.019140N), Chartered Accountants, Delhi (hereinafter referred to as the “**Respondent**”). The Complainant in his complaint has, inter alia, alleged as under:-

1.1 The Respondent was one of the Statutory Auditors of Vamshi Chemicals Ltd. (one of the group companies of Basil International Ltd, and hereinafter referred as ‘**Company**’) for the period 2004-2005 and did not take necessary steps and instructions as required and failed to point out the possible irregularities in the maintenance of the books of accounts in his Audit report, as in his statement given to SFIO, he admitted the defects in the accounts and financial statements of the Company and that he had not seen the loan registers and agreements entered into by the Company with the parties to whom the loans were given (**C-280**). Whereas in the Audit Reports prepared by the Respondent, he has specifically stated in point 4(i) that he had obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of the audit, he had not mentioned about the defects in the Accounts of the Company and thus concealed the material information for causing wrongful gain to the Company which is against the professional ethics.

1.2 Thus, from the above instances of discrepancies it is clear that the financial statements of the Company for the F.Y. 2004-2005 did not reflect the true and fair view of the state of affairs of the Company which was in contravention to the provisions of the Companies Act, 1956 and the Respondent had failed to perform his duties diligently as Statutory Auditor.

Proceedings:

2. At the outset, the Committee noted that the Representatives of the Complainant Department along with their Counsel and the Respondent along with his Counsel were present in person before it on 28th May, 2019. Since it was the first hearing in the

matter, the Respondent was put on oath. Thereafter, the Committee asked the Respondent as to whether he wished the charges to be read out or these could be taken as read. The Respondent stated that he was aware of the charges against him. On further asking as to whether he pleaded guilty, the Respondent pleaded not guilty and opted to defend the case. Thereafter, the Counsel of the Complainant placed the case before the Committee. The Counsel for Respondent made his submission on behalf of the Respondent. The Respondent was examined on the submissions made by him. Based on the documents available on record and after considering oral and written submissions, the Committee concluded the hearing in the matter.

Findings of the Committee:

3. The Committee noted that the only charge alleged against the Respondent was that the Respondent while auditing the accounts of the Company did not take necessary steps and failed to point out the possible irregularities in the maintenance of the books of accounts in his audit report. The Complainant had further alleged that in his statement given to SFIO, the Respondent had admitted the defects in the accounts and financial statements of the Company and that he had not seen the loan registers and agreements entered into by the Company with the parties to whom the loans were given. It was noted that the Respondent, in this context, had submitted in his written statement that the answer to question no. 15 in the Respondent's Statement had been misinterpreted by the Inspector of SFIO to suit his requirement.

4. The Committee noted that the Complainant had quoted the statements of the Respondent dated 06.12.2012 (**C-272 to C-278**) and dated 18.01.2013 (**C-279 to C-281**) which he had made before SFIO during their investigation in to the affairs of the Company and the answer to question no. 15 of the Respondent in the said statement dated 18th January, 2013 had been made the basis to charge against the Respondent in this regard which is reproduced as below (**C-280**):

Q.15: Have you seen the agreements entered into with the parties whom the loans have been given in 2004-2005 with specific reference to Devgiri Textile mills as entered into loan register maintained by the Company u/s 301 of the Company Act, 1956.

Ans.: I do not remember whether the Company have maintained any loan register. I do not remember whether I have seen any agreement entered into the Company with the parties whom the loan was given.

5. It is noted that the Respondent had only replied that he did not remember whether the Company had then maintained the Loan Register and also that he did not remember whether he saw the loan agreements. It is viewed that such answer could not be used to allege that accounts or financial statements were falsified. Incidentally it was noted that the investigation had revealed siphoning of funds of M/s Basil International Ltd. (BIL) to the extant company in the garb of loans and advances. The period wise break up of loans and advances given in para 4.119 of investigation report **(C-103)** clearly exhibits that no such loan or advance was given during the year 2004-05. In any case, it was noted that the Director (Discipline) had also held the Respondent not guilty of the said charge.
6. As regard the observation made in the *prima facie opinion* that the Respondent had not physically verified the Fixed Assets of the Company, which has emanated from the statement of the Respondent dated 06.12.2012 **(C-274 to C-278)** and dated 18.01.2013 **(C-279 to C-281)** that he had neither visited the office nor the factory of the Company and had issued his audit report simply on the basis of examination of books / documents produced before it by the Company in the office of Respondent **(Q. No. 6 and 7 at C-275 and C-276)**, the Committee felt that this issue did not figure in the charge alleged by the Complainant. The Committee was of the view that in complaint cases, Director (Discipline) could not go beyond the charges made by the Complainant. Hence the Committee abstained from dealing with the same.
7. Thus in light of the above, the Committee is of the considered view that since no specific allegation was made against the Respondent that indicated negligence on part of the Respondent and the charges of not examining the loan register and loan agreement did not survive (refer paragraph 5), the Respondent is **NOT GUILTY** of the alleged professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION :

8. Thus, in conclusion, in the opinion of the Committee, the Respondent is held **NOT GUILTY** of Professional Misconduct in terms of Section 22 of the Chartered Accountants Act, 1949 read with Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
9. The Committee accordingly passes Order for closure of this case against the Respondent.

Sd/-
(CA. Prafulla Premsukh Chhajed)
Presiding Officer

Sd/-
(Anita Kapur)
Member (Govt. Nominee)

Sd/-
[Ajay Mittal, IAS (Retd.)]
Member (Govt. Nominee)

Sd/-
(CA. Debashis Mitra)
Member

Sd/-
(CA. Manu Agrawal)
Member

Date : 23rd September,2019

Place : New Delhi