



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

(Set up by an Act of Parliament)

[PR-43/2015-DD/76/2015/DC/511/2016]

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

**In the matter of:**

**CA. Anju Dalmia, (M.No.136265)**  
404B, Siddhi Vinayak Horizon,  
Opp. Century Bazaar,  
Prabha Devi,  
**Mumbai-400 025.**

**Versus**

**CA. Sivaraman S. (M. No.018251)**  
**M/s. S.M.M. & Co.,**  
63, Ram Nagar, 3<sup>rd</sup> Street,  
SS Colony,  
**Madurai-625 016.**

**[PR-43/2015-DD/76/2015/DC/511/2016]**

**MEMBERS PRESENT:**

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, Member**
- 4. CA. Chandrashekhar V. Chitale, Member**

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 06.08.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Sivaraman S. (M. No.018251)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (3) of Part II of Second Schedule to the Chartered Accountants Act, 1949.



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2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication dated 19<sup>th</sup> November, 2019 was sent to him thereby granting an opportunity of being heard in person and/or to make oral/written representation before the Committee on 10<sup>th</sup> December, 2019 at Chennai.

3. Further, on 10<sup>th</sup> December, 2019, the Committee noted that the Respondent was not present and even there was no intimation for his presence, nor he has made any submission on the findings of the Committee holding him Guilty of professional misconduct within the meaning of Clause (3) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

4. The Committee noted the findings contained in Report of the Disciplinary Committee dated 06/08/2019 holding the Respondent guilty of professional misconduct, which are as under:-

*4.1 "The Committee noted that the Respondent has failed to bring on record any evidence which may prove that the Complainant was working with the firm as paid assistant as claimed by the firm in its Form 18 submitted to the ICAI despite of an opportunity being given to him. Further, the Committee notes that the Respondent has not filed any submissions before it as directed in its meeting held on 18/05/2019. Hence, it is presumed that he has nothing to add in defense of charge against him*

*4.2 The Committee seen from the facts on record that the Complainant was on employment with KVM Advisory Services Pvt. Ltd from 05<sup>th</sup> September, 2011. It is also informed that she left the job on 30<sup>th</sup> November, 2013. CA. K.V. Madhan, Managing Director of the KVM Advisory Services Pvt. Ltd was also a part time partner of the Respondent firm.*

*4.3. Even after the Complainant left the job of KVM Advisory Services Pvt Ltd, the Respondent firm did not send request to concerned Regional office of the ICAI to remove her name as a paid assistant of the firm. On perusal of Respondent firm's file submitted by the SRO, ICAI, it is seen that only when the Complainant took the matter with SRO, ICAI, the Respondent in March, 2015*



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*sent an application to SRO for removal of name of Complainant as paid assistant. It is also seen that Professional Development Committee, ICAI has confirmed that credit of two paid Chartered Accountants has been given to Respondent Firm in Bank Branch Auditors panel for the years 2013-14 to 2014-15. The Committee further notes that no evidence has been submitted by the Respondent to negate the allegations made out against the Respondent firm. All evidences indicates that the Complainant was associated with M/s. KVM Advisory Services Pvt. Ltd. as consultant upto 30<sup>th</sup> November, 2013 and the Respondent firm had by mentioning her as the paid-assistant in their firm had gained advantage of Professional assignments being allotted to it”.*

5. In view of above, the Committee is of the opinion that the Respondent willfully provided wrong information in Form 18 to gain undue advantage for obtaining bank branch audits.

Based on the above findings the Respondent being held guilty of professional misconduct, the Committee is of the view that ends of justice will be met, if the punishment awarded to the Respondent is commensurate with the seriousness of the nature of misconduct.

6. Thus, Keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent before it, the Committee ordered that the name of the Respondent i.e. CA. Sivaraman S. (M. No.018251) be removed from the register of members for a period of 03 (Three) months.

Sd/-  
(CA. ATUL KUMAR GUPTA)  
PRESIDING OFFICER

Sd/-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

Sd/-  
(CA. RAJENDRA KUMAR P)  
MEMBER

Sd/-  
(CA. CHANDRASHEKHAR V. CHITALE)  
MEMBER

DATE : 10/12/2019

PLACE : CHENNAI



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[PR-43/2015-DD/76/2015/DC/511/2016]

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]**

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

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

**File No. [PR-43/2015-DD/76/2015/DC/511/2016]**

**In the matter of:**

**CA. Anju Dalmia....(M.No.136265)**

404B, Siddhi Vinayak Horizon,

Opp. Century Bazaar,

Prabha Devi,

**Mumbai - 400 025.**

**..... Complainant**

**Versus**

**CA. Sivaraman S. (M. No.018251)**

**M/s. S.M.M. & Co.,**

63, Ram Nagar, 3<sup>rd</sup> Street,

**CA. Anju Dalmia, Mumbai -Vs.- CA. Sivaraman S. (M. No.018251), Madurai**

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[PR-43/2015-DD/76/2015/DC/511/2016]

S S Colony,

Madurai - 625 016.

..... Respondent

**MEMBERS PRESENT:**

1. CA. Atul Kumar Gupta, Presiding Officer
2. CA. Amarjit Chopra, Government Nominee
3. CA. Rajendra Kumar P, Member
4. CA. Chandrashekhar V. Chitale, Member

DATE OF FINAL HEARING : 18.05.2019

PLACE OF FINAL HEARING : ICAI, CHENNAI

**PARTIES PRESENT:**

Respondent : CA. S. Sivaraman  
Counsel for Respondent : CA. K. Ravi

**Charge in brief:-**

1. Use of Complainant's name as 'Paid Assistant' by the Respondent firm without the Complainant's permission from 05<sup>th</sup> July, 2012. As a result the Complainant is losing her Full Time Certificate of Practice status as well as Tax Audits.

**Brief of Proceeding :**



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2. The Committee noted that the Respondent alongwith Counsel was present and appeared before it. The office apprised the Committee that the Complainant via phone call has expressed her inability to travel to Chennai. In view of this, the Committee decided to proceed in absence of the Complainant based upon merits of the case.

2.1 The Respondent was put on oath and he pleaded not guilty. On being asked, the Counsel for the Respondent submitted that the hearing being held before the reconstituted bench may continued de-novo and he further requested the Committee that all his submissions made earlier will be taken on record and he has nothing fresh to add in this case.

2.2 After recording the submissions of the Counsel/Respondent, the Committee directed him to make further submission (if any) within 21 days time.

2.3 With above directions, the Committee concluded the hearing in the captioned matter.

## **FINDINGS :**

3.1. Upon perusal the documents on record, viz. the Complaint, Written Statement, Rejoinder, Prima Facie Opinion and further written/oral submissions of the Complainant, Counsel for the Respondent/Respondent, the Committee noted that a detail hearing has been conducted by the earlier Committee in its meeting held on 7<sup>th</sup> April, 2017 and the Respondent/Counsel for the Respondent has also stated before the Committee that all previous submissions made before earlier Committee may also been consider by this Committee.

Thus, the Committee after considering all papers/documents/submissions of the parties to the case, noted that in nut shell the charge against the Respondent is that the Respondent firm has used the name of the Complainant as 'Paid Assistant' without the Complainant's permission from 05<sup>th</sup> July, 2012. As a result the Complainant lost her Full Time Certificate of Practice status as well as Tax Audits.



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3.2. The Committee noted that during the hearing dated 07/04/2017, the Counsel for the Respondent had taken a plea that presently the Respondent is not having any evidence to prove that the Complainant was a paid assistant of the Respondent firm or otherwise but he will submit the necessary documentary evidences in his defence that the Complainant was working as paid assistant. The then Committee had directed him to produce the documents accordingly.

3.3. The Committee notes that the Respondent in compliance of its directions vide his letter dated 15/05/2017 has submitted inter-alia as under:-

*3.3.1 Please send notice of this case to all the persons who have signed the Form 18. Unlike the audit function where one partner signs the financial statements and is responsible for the attest function, in the present case all the partners have signed the Form 18. In the audit function only one partner, by law, signs financials. In the case of Form 18 all the partners sign. All the persons who jointly signed Form 18 would be responsible for the contents of the Form.*

*3.3.2 When the statement indicating the partners of the firm, date of admission into the firm, and other details of Chartered Accountants associated with the firm are sent out to the firm at the beginning of every calendar year by the ICAI, a card goes out to the individual member giving details of his/her association with any firm and capacity in which he/she associated. This card should have gone to the Complainant. The Complainant joined the firm on 05<sup>th</sup> July, 2012. Early in 2013 the card should have gone to her. That would have indicated to her that she is employed by the firm. She makes a complaint on 22<sup>nd</sup> February, 2015. Why did she wait this long to make the complaint. The Respondent requested for this card so as he be able to show that she had by her conduct accepted her position in the firm.*

*3.3.3 The Respondent also submitted some e-mails to show that Mr. K.V. Madhan (one of the partner of the firm) was interacting with the Complainant.*

3.4. In view above submission, the Committee noted that the Respondent has failed to bring on record any evidence which may prove that the Complainant was working with the firm as paid



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assistant as claimed by the firm in its Form 18 submitted to the ICAI despite of an opportunity being given to him. Further, the Committee notes that the Respondent has not filed any submissions before it as directed in its meeting held on 18/05/2019. Hence, it is presumed that he has nothing to add in defense of charge against him

3.5. The Committee seen from the facts on record that the Complainant was on employment with KVM Advisory Services Pvt. Ltd from 05<sup>th</sup> September, 2011. It is also informed that she left the job on 30<sup>th</sup> November, 2013. CA. K.V. Madhan, Managing Director of the KVM Advisory Services Pvt. Ltd was also a part time partner of the Respondent firm.

3.6. The Respondent has stated that the Complainant was associated with KVM Advisory Services Pvt Ltd and during that period she has been taken as a Consultant to carry out assignments on behalf of the Respondent firm and she shall be paid on assignment basis. This show statement has been denied by the Complainant of being hired as a Consultant. Further the copy of TDS certificates were being asked from the Respondent for which Respondent firm replied that they have not made any payment and hence there was no deduction of tax.

3.7. Even after the Complainant left the job of KVM Advisory Services Pvt Ltd, the Respondent firm did not send request to concerned Regional office of the ICAI to remove her name as a paid assistant of the firm. On perusal of Respondent firm's file submitted by the SRO, ICAI, it is seen that only when the Complainant took the matter with SRO, ICAI, the Respondent in March, 2015 sent an application to SRO for removal of name of Complainant as paid assistant. It is also seen that Professional Development Committee, ICAI has confirmed that credit of two paid Chartered Accountants has been given to Respondent Firm in Bank Branch Auditors panel for the years 2013-14 to 2014-15. The Committee further notes that no evidence has been submitted by the Respondent to negate the allegations made out against the Respondent firm. All evidences indicates that the Complainant was associated with M/s. KVM Advisory Services Pvt. Ltd. as consultant upto 30<sup>th</sup> November, 2013 and the Respondent firm had by mentioning her as the paid-assistant in their firm had gained advantage of Professional assignments being allotted to it.





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3.8. Thus, the Committee comes to the conclusion that it is evident that the Respondent made an incorrect disclosure in Form 18 on 20<sup>th</sup> July, 2012 to Institute and whereby the firm had put to an advantage in Bank Audit Panel on account of such disclosure as confirmed by Professional Development Committee of the ICAI. The Committee also took reference to a decided case in this regard whereby in the case of P.C. Sood vs. P.B. Kapoor- Page 95 of Vol. VI(2) of Disciplinary cases decided in February, 1988, the statement made by a member in form that 'x' was working in his firm as a Paid Assistant having found to be false and having found to have been made knowing it to be false, the concerned member was held guilty in terms of Clause (3) of Part II of Second Schedule of Chartered Accountants Act, 1949.

3.9. The Committee further notes that the Respondent while submitting his written statement at Prima Facie Opinion stage, was taking a plea that he has inadvertently assumed that a consultant engaged by a Chartered Accountants firm also comes under the category of "Paid Assistant" and therefore he has wrongly mentioned her name in the Form 18 as "Paid Assistant". But even after she being relieved from this service on 30/11/2013, the Respondent firm have failed to get the record updated with ICAI and got the same updated only in March, 2015 and that too on the instance/communication received from the Complainant.

3.10. It is also seen that the Respondent has taken a plea before the Committee that all the partners of the Firm who have signed the Form 18, should be summoned and should be made members answerable in this disciplinary case. The Committee rejects this plea of the Respondent on the ground that the Disciplinary Directorate vide its letter dated 10/04/2015 had requested the Respondent firm to disclose the name of member answerable to the subject complaint. In response to said letter, the Respondent vide his letter dated 01/05/2015 has disclosed himself as member answerable and submitted his written statement dated 01/05/2015. Therefore, at this stage, the stand taken by the Respondent is not permissible.

## **CONCLUSION :**



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4. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (3) Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(CA. ATUL KUMAR GUPTA)

PRESIDING OFFICE

Sd/-

(CA. AMARJIT CHOPRA)

GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)

MEMBER

Sd/-

(CA. CHHANDRASHEKHAR V. CHITALE)

MEMBER

DATE : 06-08-2019

PLACE : New Delhi