

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]  
[Constituted under Section 21B of the Chartered Accountants Act, 1949]**

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

**Ref No. PR- 222-16-DD/275/16-DC/668/17**

**In the matter of:**

**Shri Charan Singh,  
Sultanpur Lodhi,  
Distt. Kapurthala**

**.... Complainant**

**-Vs-**

**CA. Gaurav Dhall (M. No. 511380),  
Shop No. 11, Sehdev Market,  
Near Namdev Chowk,  
JALANDHAR – 144 001**

**.... Respondent**

**MEMBERS PRESENT:**

**Shri Jugal Kishore Mohapatra, I.A.S. (Retd.), Government Nominee & Presiding Officer,  
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee)  
CA. Babu Abraham Kallivayalil, Member  
CA. Dayaniwas Sharma, Member**

**DATE OF FINAL HEARING/ORDER : 16.10.2019**

**PLACE OF FINAL HEARING/ORDER : ICAI, New Delhi**

**PARTIES PRESENT:**

**Complainant : Not Present**

**Respondent : CA. Gaurav Dhall**

**Brief Particulars of the Proceedings:**

1. On the day of first hearing held on 29<sup>th</sup> August, 2019, the Committee noted that the Complainant was not present. The Respondent was present. Being the first hearing, the Respondent was put on oath. On being enquired as to whether he is aware of the charges levelled against him, the Respondent replied in affirmative and pleaded not guilty to the same. The Respondent decided to make his defence and he made his submissions on the matter. In the matter, the Committee noted that a notice was sent to the Complainant but the same has been returned back without service, therefore, it has been decided that a further notice shall be sent to the Complainant at his available latest address and if the Complainant failed to appear on the day of next hearing,, the case will be decided on the basis of submissions on record. With this, the hearing in the case was adjourned to a later date.

1.1 On the next day of hearing held on 16<sup>th</sup> October, 2019, the Committee noted that the Complainant was not present. The Respondent was present. Since there was no prior intimation from the Complainant about his absence and there was no request for adjournment of hearing, the Committee decided to continue further in the matter. Thereafter, the hearing commenced from the stage as it was left in last hearing. The Respondent made his submissions on the charges. The Committee raised questions to the Respondent. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.

**CHARGES IN BRIEF AND FINDINGS OF THE COMMITTEE:**

2. In the instant case, the Respondent was engaged for filing DIR-12 for removal of a Director (being the Complainant) and the allegation against him is that he acted in connivance with other Directors of the Company, M/s. Great Green Build India Pvt Ltd (hereinafter referred to as the “**Company**”) for allegedly removing the Complainant from the Directorship on the basis of false and fabricated documents. The Complainant alleged that no meeting was ever held for his removal and no notice of such meeting was received by him, thus the resolution or minutes generated regarding removal of the Complainant are manipulative and fabricated.

3. The Committee observed that the Respondent was held prima facie guilty only because he failed to produce on record the proof of delivery of the notice calling AGM to the Complainant. In respect of charge and above fact, the Respondent submitted that he had attached every document with the DIR 12 upto the satisfaction of Registrar of Companies. Further ROC also did not take any action on the filed DIR-12. On the contrary, it instructed both the parties to go to the court stating that the same is their personal dispute.

3.1 When Committee asked regarding the status of the court case, the Respondent submitted that none of the parties have gone to the court and that they have also reached a compromise among themselves. The Respondent stated that being a Chartered Accountant, Secretarial Standards issued by the ICSI is not applicable to him. He stated that notice of AGM was duly sent to the Complainant through courier.

4. The Committee noted that even the Director (Discipline) observed that there was no malafide intention on the part of the Respondent meaning thereby that there was no collusion between the Respondent and other directors of the Company. The Committee also noted that the Respondent brought on record the courier receipt to establish that notice of AGM was duly sent to the Complainant. Further, keeping the proof of delivery on record is also not a compulsory condition in Secretarial Standard – 2 and notice of AGM can be send by ordinary post also but the Respondent had sent the same by courier. The Committee also noted that the Respondent brought on record a legal opinion to support his claim that in case where notice sent through courier is not received back, then it shall be implied that it has been duly received by the addressee.

4.1 Keeping in view the above facts, the Committee decided to hold the Respondent not guilty with respect to the charge levelled against him.

### **Conclusion**

5. Thus, in the considered opinion of the Committee and based on deliberations given above, the Respondent is **NOT GUILTY** of the professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

5.1 Accordingly, the Committee passed an Order for closure of this case under Rule 19 (2) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of cases) Rules, 2007.

**Sd/-**  
**(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))**  
**GOVERNMENT NOMINEE & PRESIDING OFFICER**

**Sd/-**  
**(CA. BABU ABRAHAM KALLIVAYALIL)**  
**MEMBER**

**Sd/-**  
**(MS. RASHMI VERMA, I.A.S. (Retd.))**  
**GOVERNMENT NOMINEE**

**Sd/-**  
**(CA. DAYANIWAS SHARMA)**  
**MEMBER**

**DATE: 03<sup>rd</sup> February, 2020**  
**PLACE: New Delhi**