

**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**

**[File No. PR-25/14/DD/59/14-DC/571/17]**

**In the matter of:**

**Joint Commissioner of Income Tax,  
Range 36, Room No. 305, D-Block,  
Vikas Bhawan,  
New Delhi – 110002**

**.... Complainant**

**Vs**

**CA. Sundeep Kumar, (M. No. 507170)  
109, Balaji Complex,  
Near Mother Dairy, Pandav Nagar  
DELHI - 110092**

**.... Respondent**

**MEMBERS PRESENT:**

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

**DATE OF FINAL HEARING/ORDER : 17.12.2019**

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

**PARTIES PRESENT:**

**Complainant : Not Present  
Respondent : CA. Sundeep Kumar  
Respondent's Counsel : CA. Ravi Holani**

### **Brief of Disciplinary Committee Proceedings:-**

1. The Committee noted that the first hearing of the case was held on 28.08.2019 but was adjourned at the request of the Respondent. Second hearing fixed for 16.10.2019 was also adjournment at the request of Respondent. The case was then fixed for hearing on 21.11.2019 which was part heard and was adjourned. The said case was fixed for hearing on 17.12.2019.
2. The Committee noted that on the day of hearing, the Complainant was not present whereas the Respondent along with his Counsel was present for hearing. Since the Complainant was not present in any of the previously scheduled hearings, the Committee decided to proceed with the hearing ex-party the Complainant. Since, the matter was part heard last time the proceedings continued from there onward.

### **Charges in Brief and Findings of the Disciplinary Committee:-**

3. In the instant case, the Respondent was a Tax Auditor of a proprietary firm M/s. V.K. Paints & Sanatory Stores, Kondly, Delhi. The Complainant is Joint Commissioner of Income Tax and the Complaint was made based on Respondent's Statement recorded during a search conducted at Respondent's office. The allegation levelled against the Respondent is that the Tax Audit report of his client was signed by him without examination of books of accounts for the F.Y. 2009-10.
4. During the last adjournment, the Committee directed the Respondent to present the working papers to establish that the Respondent has exercised due diligence and that the tax audit was performed on the basis of examination of books of accounts.
5. During the course of hearing, the counsel of Respondent presented his case and submitted that firstly, the Respondent had not carried the tax audit for F.Y. 2011-12 & 2012-13. He submitted that the Respondent has carried out audit for the F.Y. 2009-10 and briefed about the documents based on which the audit was conducted by the Respondent. The counsel of the Respondent submitted that the

Respondent had duly verified & reconciled bank statement of the auditee. He also stated that its balance was also tallied with the balance sheet. Further, various sample evidence of purchase ledger, purchase statement, sales ledger maintained with some suppliers as well as fixed assets details was also presented to the Committee. An affidavit was also given by the counsel to this effect. The Committee noted that there was no issue with respect to expenditures since the entire expenditures were allowed by the tax authorities. The Committee also noted that the opening balances of balance sheet items were also tallying with previous year's balance since the counsel of the Respondent submitted that all the opening balances were verified by the Respondent from the previous year figures. After considering all submissions of the counsel of Respondent and supporting documents placed by him, the Committee decided to conclude the hearing.

### **Conclusion**

6. The Committee on the basis of records submitted and deposition made by Respondent is of view that the Respondent is **NOT GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
7. 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/-**  
**(CA. PRAFULLA PREMSUKH CHHAJED)**  
**PRESIDING OFFICER**

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

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

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

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

**DATE: 03<sup>rd</sup> February, 2020**  
**PLACE: NEW DELHI**