

**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-344/2014-DD/358/14-DC/567/2017**

**In the matter of:**

**Shri Sridhar Pamarthi,  
Registrar of Companies,  
ShastriBhawan II, Floor  
26, Haddows Road,  
Chennai-600 006**

**.....Complainant**

**Versus**

**CA. R. Hariharan (MNo: 020067)  
M/s. Hari & Eswaran  
Chartered Accountants,  
17/71, Stoneedge Towers, 1<sup>st</sup> Avenue,  
Ashok Nagar  
Chennai 600 083**

**.....Respondent**

**Members Present:**

**CA. Prafulla Premasukh Chhajed, Presiding Officer**

**Smt. Anita Kapur, Member (Govt. Nominee)**

**Shri Ajay Mittal, Member (Govt. Nominee)**

**CA. Manu Agrawal, Member**

**Date of Final Hearing: 31<sup>st</sup> October, 2019**

**Place of Final Hearing: Bengaluru**

**Parties Present:-**

**Shri K. Ravi – Counsel for Respondent**

**Allegations of the Registrar of Companies (ROC) :**

1. The Respondent was the statutory auditor of Caplin Point Laboratories Ltd (hereinafter referred to as the '**Company**') for the Financial Year 2006-07. During inspection under section 209A of the Companies Act 1956 (hereinafter referred to as the '**Act**'), the Complainant observed various instances of non-compliance of disclosure requirements of Schedule VI to the Companies Act, 1956 in respect of various expenses viz. repairs to building, repairs to machinery, insurance, rates and taxes, value of imports, value of materials etc. It was alleged that the Respondent being the statutory auditor of the Company for the F.Y. 2006-07 had failed to qualify his report under Section 227 (2) and (3) of the Companies Act 1956 on account of alleged non-compliance of the provisions of Section 211(1) and (2) read with Schedule VI of the said Act.

**Proceedings:**

2. At the time of hearing on 29<sup>th</sup> July 2019, the Committee noted that the Complainant's representative was present. On being asked by the Committee, the Complainant's representative submitted that the Respondent had made an application for compounding of offence which was pending for decision on merits and beside that he had nothing more to say in the matter. The Committee informed the Complainant's representative that the Respondent was not present and following the principle of natural justice, the Committee would give an opportunity to the Respondent to present his defense before the Committee.

3. Thereafter, at the time of hearing on 31<sup>st</sup> October 2019, the Committee noted that the Respondent's Counsel was present. The Committee further noted that neither any representative nor any authorised Counsel appeared on behalf of the Complainant. On being asked by the Committee, whether the Respondent was aware of the charges, the Counsel replied in affirmative and stated that he was aware of the charges. On being asked, whether the

Respondent pleaded guilty, the Counsel replied that the Respondent pleaded not guilty and opted to defend his case. Thereafter, the Committee asked the Counsel to make his oral submissions.

The Counsel for the Respondent made his submission before the Committee. Thereafter, the Committee examined the Counsel on the submissions made by him. Based on the documents available on record and after considering both oral and written submissions made by the Respondent alongwith oral submissions made by the Complainant at the time of last hearing held on 29th July 2019, the Committee concluded hearing in the matter.

**Findings of the Committee:**

4. The Committee noted that the charge alleged against the Respondent was that the Respondent being the statutory auditor of the Company for the F.Y. 2006-07 had failed to qualify under Section 227(2) and (3) of the Companies Act, 1956 as disclosure requirements of Schedule VI to Companies Act, 1956 with respect to certain expenses had not been complied with. The following expenses were alleged to be omitted to be shown separately in the profit and loss account as per the requirement of Part II of Schedule VI:

<b>Sl. No.</b>	<b>Nature of Expenses</b>	<b>Amount in Lakhs</b>
1.	Repairs to Building	3.97
2.	Repairs to Machinery	14.78
3.	Insurance	2.76
4.	Rates & Taxes	7.70
5.	Omission to show by way of a note, the value of imports calculated on CIF basis in respect of raw materials, % of imported and indigenous raw materials spare parts and components, capital goods and % of total consumption	

5. The Committee noted that the representative of the Complainant Department had submitted before the Committee that the Respondent had filed compounding application u/s 621A of the Companies Act, 1956 which was pending for disposal with the Regional Director, Southern Region, Ministry of Corporate Affairs Chennai.

6. The Committee, thereafter, noted the submissions of the Respondent wherein he had contended that all the expenses as pointed out in the Complaint were included either under “manufacturing expenses” in Schedule 10 or under “rates and taxes” in Schedule 12 of the audited accounts of the Company. Further, each of the expenses referred was less than 1% of the total revenue of Rs. 37,77,08,272/- reported for the year. As regard his compounding application, he stated that the entire matter was neither contested on merits nor it was done on the basis of admission of guilt and therefore, adverse inference could not be drawn on the Respondent.

6. The Committee as regard the extant case noted that the Schedule VI to the Companies Act, 1956, specifies under the head “**General Instructions For Preparation of Statement of Profit And Loss**” and specifically in para 5(1)(c) that “**any item of income or expenditure which exceeds 1% of Revenue from Operations or Rs. 1,00,000/-, whichever is higher**” should be disclosed separately. However, in this case, it was noted that none of the alleged items of expenditures as pointed out in the complaint exceeded 1% of the reported Turnover of Rs. 37,77,08,272/- for the said year and thus based on the concept of materiality of the transactions, the Committee was of the view that the question of their separate and distinct disclosure did not arise. It was further viewed that in any case total amount of expenditure incurred would remain the same, hence, their non-disclosure could not be stated to have vitiated the true and fair view of the balance sheet and thus no misconduct on the part of the Respondent could be construed by it. Accordingly, in light of above, the Committee held the Respondent not guilty of professional misconduct falling within the meaning of Clauses(6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 in respect of the charge alleged in this case.

**CONCLUSION:**

7. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is held **NOT GUILTY** of Professional Misconduct falling within the meaning of Clauses (6) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8. The Committee accordingly passes Order for closure of this case against the Respondent.

**Sd/-**  
**(CA. Prafulla Preme Sukh Chhajed)**  
**Presiding Officer**

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

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

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

**Date: 16<sup>th</sup> January, 2020**

**Place: New Delhi**