

DISCIPLINARY COMMITTEE [BENCH-III (2019-20)]

(Constituted under section 21B of the Chartered Accountants Act, 1949)

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

File No. : PPR/P/12/2016/DD/5/INF/16-DC/617/17

In the matter of :

**CA. Jagdishchandra H. Ghumara (M.No.014320)
M/s. J. H. Ghumara & Co. (FRN 103185W)
B-15, Kavita Apt.,
Natakwala Lane,
S.V. Road,
Borivali West,
Mumbai- 400092**

----- Respondent

Members Present:

**CA. Prafulla Premsukh Chhajed, Presiding Officer
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Manu Agrawal, Member
CA. Debashis Mitra, Member**

Date of Final Hearing: 25th November, 2019

Place of Final Hearing: Mumbai

Parties Present:

- (i) CA. J. H. Ghumara - Respondent**
- (ii) CS. Jaymin Modi – Counsel for Respondent**

Allegations of the Informant; the Joint Director, MCA:

1. An investigation of M/s. Geodesic Limited (hereinafter referred to as the “Company”) was conducted vide Order of the Hon’ble High Court of Bombay dated 02-03-2015. It was alleged that the Respondent being the Internal Auditor of the Company for the period April 2012 to June 2013, had failed to report the factual position of the Company including huge transfer of funds to foreign subsidiary companies and step down of subsidiary companies. Further, on perusal of the investigation report, it was noticed that the Respondent being the Internal Auditor had not pointed out any system failure or non-maintenance of basic records whatsoever or even issues related to ruthless transfer of the Company’s almost entire funds to the subsidiary companies located in foreign countries by way of so called investments and/or loans.

Proceedings:

2. At the time of hearing on 25th November 2019, the Committee noted that the Respondent along with his Counsel appeared in person before the Committee. 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 those could be taken as read. The Respondent stated that he was aware of the charges against him. On being further asked whether he pleaded guilty or not, the Respondent pleaded not guilty and opted to defend his case.

The Counsel for the Respondent thereafter made his oral submissions before the Committee. The Committee examined the Respondent on the submissions made by him. Accordingly, on consideration of all the documents/information available on record as well as written/oral submissions made, the hearing in the matter was concluded.

Findings of the Committee:

3. The Committee noted that the allegation in the extant case was that the Respondent being the Internal Auditor of the Company for the period April 2012 to June 2013, had failed to report the factual position of the Company including huge

transfer of funds to foreign subsidiary companies and stepping down of subsidiary company.

4. The Committee noted the submissions made by the Respondent before the Committee and also vide his letter dated 4th August 2017 submitted after the copy of *Prima Facie* Opinion considered and accepted by the Disciplinary Committee was sent to him that he had not signed the report or any other documents for the period covered under the said investigation and the said report purported to have been signed by the Respondent was a fraudulent document. He further submitted before the Committee that he was totally bed ridden due to spinal cord disorder and his physical movements were restricted to a great extent and further he had lost certain documents while shifting his residential premises.

5. On perusal of the papers on record, the Committee noted that while raising the allegations, the Informant had not provided the copy of the internal audit report purported to have been signed by the Respondent which was sought by the Respondent while his written statement was called for by the Directorate under Rule 8(3) of the CA Rules 2007. Thereafter, on perusal of the papers on record by the Disciplinary Directorate under Rule 8(5) of the said Rules, Copy of the said Internal report for the year 2012-13 purported to be signed by the Respondent was sought from the Informant Department which was duly received. After consideration of the said report along with the other papers available on record, a *prima facie* opinion in the matter was formed by the Director (Discipline), a copy of which was sent to the Respondent after the same was being considered and accepted by the Disciplinary Committee. On receipt of the same, the Respondent vide his letter dated 4th August 2017 submitted that he had not signed the internal report or any other documents for the period covered under the said investigation conducted by the Informant Department and that the said report purported to have been signed by him was a fraudulent document.

6. The Committee in this regard noted that on one hand the Respondent had denied to have signed the alleged document based on which the proceedings have been initiated and on the other hand the Informant has informed vide letter dated 1st August 2017 that there is no other document in their possession other than what has

already been sent to the Directorate. On perusal of the documents on record, the Committee was of the view that to hold a professional guilty of misconduct, proof of evidence is required to establish misconduct on part of the Respondent beyond doubt. However, in extant case, the Informant was able to bring on record only a copy of purported report without any copy of his appointment letter or correspondence held between him and the Company to establish that it was the member who had conducted internal audit of the said period and it was his report. Thus, considering the evidence/documents brought on record by the Informant, the Committee formed an opinion that the allegations in the extant case could not be substantiated against the Respondent more so when the Respondent had categorically denied having issued the alleged internal audit report. Accordingly, in light of the above, the Committee was of the view that the Respondent was not guilty of the alleged charges in the extant 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 (5) & (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 Premsukh Chhajed
Presiding Officer

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

Sd/-
CA. Manu Agrawal
Member

Sd/-
CA. Debashis Mitra
Member

Date: 16th January, 2020

Place: New Delhi