

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2017-2018)]

[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 2006]

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-287/2014-DD/343/2014/DC/632/2017]

In the matter of:

Shri Kieran Dempsey

Bursar, Dubai College

P O Box 837

DUBAI - U A E.

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Complainant

-vs.-

CA. Anupam Dey (M. No. 059466)

C/o Mrs. Sakti Rani Dey

Megh Mallar Fat No. 4F/2

Block – 2

18/3 Gariahat Road

KOLKATA – 700 019

Respondent

MEMBERS PRESENT:

CA. Naveen ND Gupta, Presiding Officer

Shri Amit Chatterjee, Government Nominee

CA. Sanjay Kumar Agarwal, Member

CA. Manu Agarwal, Member

DATE OF FINAL HEARING : 09.01.2018

PLACE OF FINAL HEARING : ICAI, Russel Street, KOLKATA

PARTIES PRESENT : No party was present and there was no intimation at the time of final hearing

Finding of the Committee

The Committee noted that none of the parties to the case is present. The notice (s) issued to the Complainant and the Respondent for the hearing have been duly served upon them. Further, the Committee observed that last time, the case was adjourned on the request of the authorized Counsel of the Complainant.

In view of above facts, the Committee decided to proceed further based on the papers / documents available on record. The Committee look into the facts of the case as briefed by the Director (Discipline) to it and noted that the Respondent was reportedly absconding and was also not reachable through telephonic contact as per mobile detail available on record. The Committee also noted that the Respondent had paid his membership fees as per record in his membership file.

1. The Committee noted that main and only charge against the Respondent is that while working as an Accountant with the Complainant College, he has systematically embezzled the money of College by manipulations, dishonestly committed series of fraudulent acts in order to cause wrongful gain to himself and loss to College. Total recovery of Rs.40,76,23,196/- against him is receivable comprising of the principal amount due along with interest.

2. The Committee perused the papers/documents available on record.

3. The Committee took note of the order of Dubai Court dated 26th November, 2012 against the Respondent in case no. 2058/2012 wherein he had been held guilty and was sentenced to five years of imprisonment alongwith a monetary fine of AED15,773,946. The Committee also took note of the report of Special auditor M/s Moore Stephens dated 17.01.2013 wherein it was clearly mentioned that the Respondent adopted the fraudulent means to siphon off the money of the Complainant college. The contents of said report are as under:-

Nature of payments:

The following factors indicate that the payments were irregularities and misappropriation of funds:-

a) They were not properly reported in the College's accounting records.

- b) There are no available supports or approvals for the payments, which is contrary to generally accepted accounting procedures and the College's own accounting and control requirements.*
- c) All of the copies of the cheques relating to the payments that were received on request from Emirates NBD were handwritten and all were in the name and to the benefit of Mr. Anupam Dey, the College's Financial Controller, who held the ultimate responsibility for the Accounting records.*
- d) There is no evidence at all that the college owed these amounts to Mr. Anupam Dey.*
- e) The copies of cheques received from Emirates BND have varying degrees of evidence of having been altered, either as to the payees name or to the amounts of the cheques (see section to allow).*
- f) Mr. Anupam Dey left the United Arab Emirates on the evening of the day in which we, as auditors, began asking him questions in relation to the accounting records that he could not answer.*
- g) There are three cheques totaling AED 2, 434, 838 for which the required signatures according to the bank mandate had not been followed.*
- h) For a significant number of cheques, supporting documents have been found that correspond to four of the five numbers in the cheque amounts, suggesting that the finally drawn amounts had been increased from the originally signed amounts.*

Alterations to the cheques:

From a review of copies of the cheques relating to the payments that were received on request from Emirates NBD Bank, the cheques can be characterized as follows:-

Inward clearing cheques

- a) Payee clearly altered*
- b) Payee appears to have been altered*

Cash Cheques

- a) Amount in words clearly altered*
- b) Amount in words appears to have been altered.*

4. On perusal of above Order and report, the Committee was of the view that the conduct of the Respondent shows that he was actively involved in misappropriation of funds of the Complainant college. The Committee also noted that the Respondent has not produced any written submission at any stage i.e., neither at prima facie stage nor at the time of hearing despite notice being duly served upon him.

5. Further, the Committee also perused the membership file of the Respondent wherein it was found that the Respondent was regular in depositing his membership fee with the Regional office and there was no change in his professional address in ICAI's record indicating that the Respondent was trying to deliberately avoid the submissions/ clarification/ appearing before it.

6. In view of above noted facts, the Committee was of the opinion that the Respondent is GUILTY of professional misconduct.

Conclusion

7. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of professional and other misconduct falling within the meaning Clause (2) of Part IV of First Schedule and Clause (4) of Part II and Clause (1) of Part III of the Second Schedule to the Chartered Accountants Act, 1949.

**Sd/-
(CA. NAVEEN ND GUPTA)
PRESIDING OFFICER**

**Sd/-
(SHRI AMIT CHATTERJEE)
GOVERNMENT NOMINEE**

**Sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER**

**Sd/-
(CA. MANU AGARWAL)
MEMBER**

**DATE : 08th February, 2018
PLACE : New Delhi**

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

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:

Shri Kieran Dempsey, Dubai (U.A.E.)

- vs -

CA. Anupam Dey (M. No. 059466), Kolkata
[PR-287/2014-DD/343/2014/DC/632/2017]

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

1. That vide report dated 08.02.2018, the Disciplinary Committee was of the opinion inter-alia that **CA. Anupam Dey (M.No.059466)** (hereinafter referred to as the “**Respondent**”) was **GUILTY** of professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of First Schedule and Clause (4) of Part II and Clause (1) of Part III of the Second Schedule to the Chartered Accountants Act, 1949.

2. That pursuant to the said report, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication dated 24th October, 2019 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 7th November, 2019 at Kolkata.

3. On the day of hearing i.e. 7th November, 2019, the Respondent was not present. The Committee noted that the Respondent vide his e-mail dated 25th October, 2019 expressed his inability to appear before the Disciplinary Committee due to his non- availability in India and accordingly, requested for adjournment of hearing. The said request was denied in view of adjournment sought on similar ground on earlier occasion and this fact was duly informed to the Respondent. Looking into the fact that the award of punishment in this case is pending for long time since the date of report, the Committee decided to proceed further with pronouncement of its Order.

4. The Committee noted that the Respondent vide aforesaid e-mail dated 23rd December, 2018 made the following submissions:-

4.1 The Complaint made by the Complainant is entirely false and the Complainant are trying to implicate him falsely and trying to ruin his career.

4.2 He has already initiated criminal proceedings against the Complainant.

5. The Committee considered the reasoning(s) as contained in paras no. 1 to 7 of the Disciplinary Committee report, holding the Respondent Guilty of professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of First Schedule and Clause (4) of Part II and Clause (1) of Part III of the Second Schedule to the Chartered Accountants Act, 1949.

6. The Committee considered the findings as contained in the Report along with submissions of the Respondent submitted through his e-mail dated 23rd December, 2018. The Committee noted that the Respondent vide his e-mail dated 23rd December, 2018 only stated that the Complainant is trying to implicate him falsely and trying to ruin his career. He did not give any submissions on the findings the Disciplinary Committee and accordingly, appears to have accepted the same.

7. Keeping in view the facts and circumstances of the case, material on record and the submissions as made in Respondent's e-mail dated 23rd December, 2018, the Committee ordered that **the name of the Respondent i.e. CA. Anupam Dey (M.No. 059466) be removed from the register of members for a period of 3 (Three) Years and a fine of Rs.1,00,000/- (Rupee One Lakh only) (excluding taxes, if any) be imposed upon the Respondent i.e. Anupam Dey (M.No. 059466) to be paid within 30 days of receipt of this order.**

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

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

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

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

DATE : 07th November, 2019

PLACE : Kolkata