

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (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-337/2014-DD/357/14-DC/501/2016

In the matter of:

**Shri V. G. Surendran,
301-303, NandadeepRudrakuti CHS Ltd.
Rajaji Path X Lane No. 2
Dombivali (E)
Thane-421 201**

.....Complainant

-Vs-

**CA. Deepak Sadashiv Karanth, (M. No. 039945)
M/s R.K. Karanth & Co.,
62, Bombay Mutual Building,
293 Dr. D. N. Road, Fort,
Mumbai-400 001**

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer,
Shri Rajeev Kher, IAS (Retd.), Government Nominee
CA. Rajendra Kumar P, Member
CA. Chandrashekhar Vasant Chitale, Member**

DATE OF FINAL HEARING : 30.05.2019

PLACE OF FINAL HEARING : ICAI Tower, Bandra Kurla Complex, Mumbai

PARTIES PRESENT:

Complainant : Not Present

Respondent : Not Present

BRIEF OF THE CHARGES:-

1. The Committee noted that the crux of the charges against the Respondent as alleged by the Complainant was that the Respondent as auditor of M/s. Keraleeya Samajam, Dombivli (hereinafter referred to as the “**Samajam**”) failed to point out mistakes / discrepancies in the audited accounts of the Samajam for the financial year 2012-13. The main allegation pertained to the various expenses being accounted for by the Samajam and debited in the books of accounts without any evidence or supporting vouchers. The details of the allegation mainly related to passing of entries in the college account without any basis. The charges in respect of which the Respondent was held prima facie guilty are as under:-
 - i) A deliberate attempt to project sundry debtors and income receivable to look smaller by showing grants due to college aggregating Rs 76,59,322/- as notes forming part of balance sheet instead of reflecting against sundry debtors and income receivable,
 - ii) Huge cash withdrawals ranging from Rs 15,000/- to Rs 2, 00,000/- at a time on more than 20 instances effected from Axis Bank of Model College Branch through pre-printed A/c Payee Order Cheques by crossing A/c Payee cancellation duly signed across and also on the reverse side, encashed by staff with down signatory of Dr. M. R. Nair, Principal-Model College. These withdrawals effected from Axis Bank Saving A/c No. 125010100017408-Model College. The said cash withdrawals debited without any documentary support and incurred on fictitious expenses without any supporting documents.
 - iii) It was also alleged that a piece of land was sold twice by the Trust, first time in the year 1990 and second time in the year 2007, which the Respondent failed to point out in his audit report.

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

2. First of all, the Committee noted that the hearing in the matter was concluded on 19.12.2018 by the then Committee. However, the then Committee could not arrive at

any findings in the matter and accordingly, the matter was re-fixed for hearing. On the day of hearing held 30.05.2019, the Committee noted that neither the Complainant nor the Respondent was present. It is noted that there was an e-mail dated 18th May, 2019 from the Complainant to close the matter. Accordingly, the Committee decided to proceed ahead with the matter ex-parte. The Committee after perusal of the documents on record, decided to conclude the hearing.

FINDING OF THE COMMITTEE

3. The Committee decided to go through the documents and submissions on record including oral submissions as made before the earlier Committee. The Committee noted that the Respondent in his submissions stated that the various expenses have been duly accounted for in the college account and the same are authorised by the concerned officials of the college. The cash withdrawals were mainly to meet the building expenses which were then under construction and relating to routine / monthly expenses. The Committee noted that the Respondent in earlier hearing had stated that the Vouchers were duly authorised.
4. The Committee also noted that the accounts of the Samajam for the financial year 2012-13 are duly authorised and passed in the Annual General Meetings of the members where the Complainant was also present. The Complainant on the other hand, expressed his inability to submit evidence to substantiate the allegations against the Respondent. It is noted that the Complainant stated that although he got the opportunity to inspect the books of accounts of the Samajam but he was denied to take the copies of the same. The Committee further noted that the Respondent also did not bring on record his written submissions on the prima facie opinion.
5. As regard the charge related to the grant not shown as receivable in the books of accounts of the Samajam, it is noted that in Notes to Accounts, it was mentioned that *“grant due to the college in respect of salaries to some members of the staff have been withheld by the Jt. Director of Education, Govt. of Maharashtra pending ongoing enquiries. The total amount salary paid by the Samajam in respect of such employees*

aggregate to Rs.55,18,646/- upto 31.03.2012 & Rs.21,40,676/- for the year 31.03.2013. The college will account for the Grant in the year of actual receipt". On perusal of audit report for the year ending 31.03.2013, the Committee noted that the Respondent duly pointed out that "Income from grants due to the Model Degree College has been accounted only to the extent actually received. Attention was invited to Note no.5 of the Notes forming part & attached to the accounts. Taking into consideration the above, the Committee is of the view that the grant was withheld by the Government due to ongoing enquiries with respect to some of the staff members and due to this reason the management had not taken into the account the amount of grant receivable. Since a note was given in the notes to accounts by the management and the Respondent also pointed out the aforesaid facts in his audit report, the Committee is of the view that the Respondent had made proper disclosure regarding grant, hence, he is not guilty of professional misconduct with respect to this charge.

6. As regard the charges relating to cash withdrawal by Account payee cheques and related to expenses being recorded in the books of account without any supporting, the Committee noted that though the Complainant made allegations but he did not provide evidence to substantiate his contention that expenses were recorded without any supporting. In this regard, the Respondent stated that there was proper supporting and expenses were recorded in the books with the proper approval of the concerned persons. As regard the cash withdrawal through account payee cheques, the Respondent stated that the Samajam had only pre-printed stationery / cheques with cross line. The cash withdrawals were made for payment of salary of staff members and for the same they used account payee cheques by cancelling cross line with signatures and by putting signatures on the back side of the cheques. The bank did not object to the same and allowed the Samajam to withdraw the cash. In this regard, the Committee noted that since the banks was allowing the withdrawal of cash through pre-printed A/c payee cheques by crossing A/c payee cancellation duly signed across and there was no evidence on record to show that the amount was not utilized for the purpose for which the withdrawal was made, the Committee decided to hold that the Respondent is not guilty of professional misconduct with respect to above charges.

7. As regard the charge relating to the sale of land twice by the Samajam, on perusal of the management report of the Samajam for the year 2012-2013, it is noted that there was dispute over the land and an outsider was claiming some 300 sq. Mtrs of land. Against this, the Samajam went to the Court and secured an injunction. The outsiders tried to obstruct the NA survey and complained to the Taluka Inspector of Land Record Office (TILR Office). The TILR authorities, after perusing the records submitted by the Samajam, gave the order in favour of the Samajam and stated that the outsider has no records to show that the land belonging to the Samajam includes land purported to have been sold by the landlord to it and 5 others. In respect of above charge, the Complainant produced copy of search reports issued by Shri G.H. Jagtap, B.Com, showing transactions of land. As per these report, M/s. Samajam had purchased 10560 Sq. Meters land from M/s. Bhagwati Builders & Developers and others and sold one piece of land measuring 842.86 Sq. Meters to Kalyan Dombivali Municipal Corporation in 2011. However, both the search report and the order of the TILR do not reveal that M/s. Samajam had sold a land twice. Accordingly, the Committee decided to hold the Respondent not guilty with respect to this charge.
8. The Committee noted that this matter appears to be an offshoot of the dispute between the Complainant and the management of the Samajam. It appears that since the Complainant could not get reply / document from the management of the Keraleeya Samajam in respect of certain transactions done by the Keraleeya Samajam, he made allegations against the Respondent. Most importantly, the audited accounts were duly approved in the AGM whereat the Complainant was present and there was nothing on record which indicates that any adverse remark / points were made in the AGM against the Respondent or in respect of the accounts audited by the Respondent.

CONCLUSIONS:

9. In view of reasoning mentioned in the preceding paras above, the Committee is of the view that the Respondent is **NOT GUILTY** of professional misconduct of Clauses (6) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

9.1 Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case against the Respondent.

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(SHRI RAJEEV KHER, IAS (Retd.))
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE: 10-02-2020
PLACE: New Delhi