

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.

File No. [PR/339/14/DD/361/14/DC/523/17]

In the matter of:

Shri M N Pratap Reddy

Flat No. 205, 2nd Floor,
Vishwa Prakruthi Haveli,
Snehanagar Colony, Above Reliance Fresh,
Amruthahalli Main Road
BANGALORE – 560 024

..... Complainant

Versus

CA. Raghavendra Naik T (M. No. 210228)

21/2, Madhuvan,
New High School, V. V. Puram,
BANGALORE – 560 004

..... Respondent

MEMBERS PRESENT:

1. CA. Atul Kumar Gupta, Presiding Officer
2. CA. Amarjit Chopra, Government Nominee
3. CA. Rajendra Kumar P, Member
4. CA. Chandrashekhar V. Chitale, Member

DATE OF FINAL HEARING : 03.07.2019
PLACE OF FINAL HEARING : ICAI, CHENNAI

PARTIES PRESENT:

Complainant : Shri M N Pratap Reddy
Counsel for the Complainant : Advocate Sai Srvjan Tayi, M/s. Giridhar & Sai
Respondent : CA. Raghavendra Naik T

Charges in brief:-

1. There are two charges against the Respondent, in which he has been held Prima facie guilty. These are as under:-

1.1 The Respondent while acting as the statutory auditor of the Company also prepared financial statements of the Company.

1.2 The Respondent is showing the Company as a going concern, while it was not so.

Brief of Proceeding :

2. The Committee noted that the Complainant along-with Counsel and the Respondent in person was present and appeared before it. Since this was the first hearing, the Complainant and the Respondent were put on oath. The Complainant explained the charges to the Respondent and being enquired by the Committee, he pleaded not guilty and wish to defend the charges.

2.1 On being asked by the Committee, both the parties agreed that all papers and submissions being submitted before earlier Committee be taken on record. Thereafter, the Respondent made final submissions to defend the charges.

2.2 After recording the submissions of the Respondent, the Committee concluded the hearing in the caption matter.

FINDINGS :

3. It is the charge of the Complainant that the Respondent did not exercise due diligence and was grossly negligent in the conduct of his professional duties. The Complainant alleged that the Respondent has received financial statement prepared by the accountant of the Company and signed by the Complainant and he returned the financial statements by changing them from what was originally submitted by the

Complainant. In consequence, the financial statements reflect the Company as going concern contrary to that the Company was not a going concern.

3.1 The subject matter of the complaint is the financial statement for the year 31st March 2014 (2013-14). The attention of the Committee is drawn to the said financial statement. The important point to be noted here is that the financial statements in question did not bear any signatures.

3.2 As these financial statements were not signed by the Respondent, the Committee is of the view that no inference can be drawn neither any conclusion can be arrived from these financial statements which are not attested by Chartered Accountant.

3.3 The Complainant agrees that the same are not signed by the Respondent but informed that the same have been audited by him and that only affixing of the signature was pending.

3.4 The Respondent vide his written submission dated 3rd July 2019 submits that he has not formed any opinion nor has he concluded anything with respect to the financial in respect of year 2013-14 and that account were not prepared by him but prepared by the accountant of the Company.

3.5 The Committee finds merit in his submission. The role of a professional will come into the judgment only when he has given an assurance by affixing his seal and signature on any document. In the instant matter the issue of forming a professional judgment fails as the Respondent has not affixed his seal and signature on the documents of which the Complainant has placed reliance upon.

3.6 The Complainant has failed to bring any positive evidence on record that the Company was not going concern and that the Respondent acted as an accountant. On the contrary, the Respondent has proved that he has no role to play with respect to the financial statement in question in this matter.

3.7 Accordingly, the Committee finds merits in his submission and held him not guilty of professional misconduct.

CONCLUSION :

4. Thus, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** of Professional Misconduct falling within the meaning of Clauses (4), (7) & (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

5. 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/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHHANDRASHEKHAR V. CHITALE)
MEMBER

DATE : 16th December, 2019

PLACE : New Delh