

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]

Findings 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-75/215/DD/75/2015/DC/799/2018]

In the matter of:

Shri James K. George,
Alias Chackappan Kannampuzha,
Kannampuzha House,
Cathedral View,
Kottayam District,
Changanacherry,
KERALA -686 101

..... Complainant

Versus

CA. Tony C. Kullukalam..... (M. No. 205096)
M/s Kullukalam & Co. (FRN. 011248S),
Chartered Accountants,
Beat No.5, Vazhappally,
Changanacherry-
Kottayam District
KERALA-686101

.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer

CA. Amarjit Chopra, Member (Govt. Nominee)

CA. Chandrasekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 29.07.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT :

Complainant : Not Present

Respondent : CA. Tony C. Kullukalam

Charges in Brief:-

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent had been held Prima Facie not guilty of professional misconduct on the grounds that the Respondent is guilty under Clause 7 of the Part I of Second Schedule of Chartered Accountant Act 1949. The said clause states as under :-

“(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;”

2. In this case the prime allegation that the Respondent who was the statutory auditor of the Church has submitted report dated Nil to the Church for Financial Year 2011-12 and the Complainant has stated the following allegations:
 - i) That the loan received was shown in income and expenditure accounts as an item of income.
 - ii) The expenses for renovation and extension of the building, capital expenses like cost of timber, electrical fittings etc. were shown as revenue expenditure in the Income and Expenditure account
 - iii) The values of the Church building and other assets such as Furniture & Fixtures were not shown.

Brief facts of the Proceedings:

3. On the day of hearing, the Committee noted that Complainant was not present but a letter was received by the Complainant to request the Committee to
Shri James K. George Vs. CA. Tony C. Kullukalam

proceed with the case with the documents already on record; on other hand, the Respondent appeared before the Committee. The Respondent was put on oath. In the absence of the Complainant and with consent of Respondent, the charges were taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wishes to proceed with his defence. Thereafter, the Respondent placed his defence on table. After considering all papers available on record and provisions of law, the Committee decided to proceed with the matter.

Findings of the Committee

4. On the matter stated above this Committee reviewed the various documents and paper which were placed on record and also the Committee noted that the Respondent accepted his mistakes on account that as auditor of the Church has submitted Nil dated report to the Church for Financial Year 2011-12. Moreover, the Respondent submitted that initially he was appointed as Statutory Auditor and later being converted into Internal Auditor, accordingly, he has given Internal Audit Report for F.Y.2011-2012. The same has been intimated to the management of the Church through letter dated 18 November, 2014 annexed as 'C-30' of Prima Facie Opinion.
5. He further submitted that in the abovementioned letter in Point no.3 the Respondent specifically mentioned that "The Vicar and the Parish Council may take appropriate decisions on our audit findings by appointing another auditor (internal or external) to look afresh." Thus, the Respondent has performed his duties by pointing out in the above said letter to the Management of the Church. Moreover, by pointing out as above, the Respondent merely acted as internal auditor of the Church.
6. The committee also noted that SA 700 "Forming and Opinion and Reporting of Financial Statements" is not applicable in the present case as the internal audit report is being issued by the Respondent subject to reference that external auditor may be appointed to look matter afresh. Based on his findings

in his report, management of church issued various notices and out of revenge of the same the Complainant filed a false complaint against the Respondent.

Conclusion

7. In view of the above the Committee is of the opinion that since there is no applicability of SA-700 in this particular assignment and the Respondent has conducted only Internal Audit of the Church, accordingly, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** in terms Clause (7) of the Part I of Second Schedule of Chartered Accountant Act 1949.
8. Accordingly, the Committee passes an Order for closure of this case under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE: 10th February, 2020
PLACE: NEW DELHI