

CONFIDENTIAL

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

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

**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-9/2015-DD-30/15/DC-795/2018]

In the matter of:

**Shri Y. Suresh Kumar Reddy,
Plot No.42,
Prashasan Nagar,
Road No.72, Jubilee Hills,
HYDERABAD 500 033 [Telangana]**

..... Complainant

Versus

**CA. G. Amaranadha Reddy(M.No.220530),
6-1-229/B/43, 1st Floor,
Old C.I.B. Quarters, Khairatabad,
HYDERABAD – 500 004 [Telangana]**

... Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee
CA. Rajendra Kumar P, Member
CA. Chandrashekhar Vasant Chitale, Member**

DATE OF HEARING : 10.12.2019

PLACE OF HEARING : ICAI Bhawan, Chennai

Parties Present:

Respondent : CA. G. Amaranadha Reddy

Counsel for Respondent : CA. C.V. Sajan

Charges in Brief:-

1. The Complainant in his complaint has alleged as under:

1.1 *M/s Vistafutura Industries Pvt. Ltd. (hereinafter referred to as the Company) was incorporated on 10th July, 2012. The present paid up capital of the Company is 50,000 equity shares of Rs.10/- each amounting to Rs.5,00,000/-. The Complainant holds 16,500/- equity shares. As per the Articles 30 of the Articles of Association, the Complainant is one of the First directors of the company and continued to be so even to this date. Mr. D.V. Shiva Prasad & Mr. P. Srinivas are also the directors of the Company.*

1.2 *It is a fact that there was no board meeting held on 2nd September, 2013 and no General Body meeting held on 28th September, 2013. On verification of the MCA Website, the complainant (having 1/3rd of share capital) was shocked to note that the Respondent has certified and uploaded certain documents like:*

(a) Notice convening 1st AGM on 28.9. 2013

(b) Directors Reports dated 2.9.2013

(c) Balance sheet as on 31.3.2013

(d) Pre-operative expenses statement 31.3.2013

(e) Annual return dated 28.9.2013.

The above forms vis. Form 123AC & Form ACA & Form 23B (sic.20B) have been uploaded by the Respondent by giving a false certificate stating that he has personally verified from the records of the company. This deliberate and fraudulent Certification was done by the Respondent with a motive to cheat the Complainant and other Shareholders of the company for some ulterior purpose.

1.3 *The Complainant was shocked to note the above certification uploadings by the Respondent is nothing but a fraudulent attempt in contravention of various provisions of the Companies Act including Section 193 of the Companies Act, 2013 read with also Section 628 of the Companies Act, 1956 and Section 447 & 448 of the Companies Act, 2013.*

Findings

2. On the date of hearing, the Committee noted that the Complainant was neither present in person nor represented by any authorized representative. The Committee also took note of the fact that the Respondent alongwith his counsel was present. In the absence of the Complainant and based on the documents available on record, the Committee decided to proceed with the hearing.

3. This is a matter arising out of a prima facie opinion by the Director (Discipline) who has held the Respondent guilty. On perusing the Complainant's documents, the Committee notes that the crux of the charge of the Complainant is as follows:
“Form 23AC and Form ACA and Form 23B have been uploaded by the Respondent by giving a false certificate stating that he has personally verified from the records of M/s Vista Futura Industries Pvt. Ltd. This deliberate and fraudulent certification was done by Respondent with a motive to cheat the Complainant and other shareholders of the company for some ulterior purpose”.

4. The Respondent submits that the Complainant, the Director and shareholder of the company in question is involved in a dispute with other shareholders who have majority stake in the company. The Respondent further submits that filing of form 23AC, 23ACA was to submit the financial statements of the company which is approved by the Board of Directors and subjected to audit. The documents produced by the company evidenced that a board meeting was held on 13.9.2013 and the financial statements of the company were approved in the said board meeting. The Respondent further goes on to add that the Complainant did not attend the said meeting. The two directors who held majority of the shares of the company approved the

financial statements and the same was perfectly legal and in order. Digital signature of one of the two directors who has approved the financial statement was used for submitting the form 23AC and form 23ACA.

5. The Respondent submits that form 20B was filed after satisfying that the shareholders meeting on 28th September, 2013 was held and the financial statements of the company were approved in the said meeting. The Respondent also submits that the Complainant did not attend this meeting.
6. The Respondent submits that the MCA guidelines relating to attachments to statutory forms have to be in PDF format and the remarks Sd/- at the place of signature shall indicate that the signature of the concerned person was actually obtained.
7. The Respondent brings to the notice to the Committee that he was provided the PDF format and that the remark Sd/- was found against the name of the Complainant also. The Respondent who was also the auditor of the said company certified the financial statement after the two majority directors signed the same. It was informed to the Respondent that the signature of the third director would be obtained. As such when the financial statements in PDF format with Sd/- remarks was produced before him, there was no reason for him to believe that the Complainant the third director did not actually affix his signature. This fact was known to the Respondent only when the Complainant took up the matter with him.
8. The Respondent admits that it was a mere clerical oversight and there was no mala fide intention on his part. The respondent also submits that he has not given any false certification as all the documents filed by him were approved by majority of shareholders and directors. Accordingly, the Committee is of the view that the Respondent is not

guilty of any professional misconduct falling under schedule I and Schedule II of the Chartered Accountants Act, 1949. Having held the Respondent not guilty, the Committee advises the Respondent to be more vigilant and cautious in the discharge of his professional duties and responsibilities.

Conclusion:

9. In view of the above and based on the averments made by the Respondent the Committee holds the Respondent not guilty of professional misconduct falling within the meaning of clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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

**Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE**

**Sd/-
(CA. RAJENDRA KUMAR P.)
MEMBER**

**Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER**

DATE : 10th February, 2020

PLACE : NEW DELHI