

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-109/15-DD/113/2015/DC/741/2018]

In the matter of:

**Head of Branch,
Central Bureau of Investigation,
Anti Corruption Branch,
No. 36, Bellary Road, Ganga Nagar
Bangalore- 560 032**

.....Complainant

Versus

**CA. Maddanaswamy B. V. (M. No. 023589)
No. 37, M.N. Krishna Rao Road,
Opp. Lalbagh Westgate,
Basavanagudi,
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:

Respondent : CA. Maddanaswamy B.V.

Charges in brief:-

1. The charge of the Complainant is that the Respondent has falsely certified highly inflated financial statements of M/s. Nikhara Electronics & Allied Technics (hereinafter referred as **the firm**) which were used in preparing Project Reports for the Firm. The said Project Reports were used by the accused persons i.e. Shri B. Lakshmana and his wife, Smt. Shanta Gowda to avail credit facilities from Vijaya Bank, Mayohall Branch, Bangalore leading to a wrongful loss of Rs. 34 Lakhs to the Bank. The Complainant further stated that the Respondent had admitted this lapse and omission before the Investigating Officer wherein he admitted that the financial statements certified by him do not match with the data furnished to the Commercial Tax and Income Tax Departments.

Brief of Proceeding :

2. The Committee noted that the Respondent in person was present and appeared before it. The Complainant was not present despite notice was duly served upon him.

2.1 The Committee decided to proceed in absence of the Complainant based upon available papers on record.

2.2 Since this was the first hearing, the Respondent was put on oath. In the absence of the Complainant, the office explained the charges to the Respondent and being enquired by the Committee, he pleaded not guilty and wish to defend the charges.

2.3 The Respondent made written and as well as oral submissions before the Committee in his defense. After recording the submissions of the Respondent, the Committee concluded the hearing in the caption matter.

FINDINGS :

3. In this case, Dr A. Subramanyeswara Rao, Superintendent of Police & Head of Branch, CBI, ACB, Bangalore –vs- CA. Maddanaswamy B. V. today on 3rd of July, 2019, there was no body present from the Complainant Department and the Respondent was present in person and made his oral as well as written submission

before the Committee and explained that no case was filed by the CBI inspite of 7 years after the case was initiated.

3.1 On a question from the Committee, whether the respondent has maintained any working papers, the respondent replied that as the matter is very old and the CBI confiscated all the papers on record, he is not able to produce any document as decided by the Committee. In the absence of the complainant to support their complaint, the Committee could not proceed further. The respondent in his defence has brought on record the submissions of the CBI dated 13.7.2017 wherein it is stated that he is not named as an accused in the chargesheet filed by the complainant.

3.2 The Committee records the following:

First, enough time has passed and the CBI in its own submissions dated 13/07/2017 has admitted that “*a charge sheet in this case is filed and the Respondent is not named as accused in the charge sheet*”.

Secondly, there is a dispute regarding identity of the proprietor of auditee concern whose tax audit report certified by the Respondent and partnership firm who availed credit facilities from Vijaya bank based on project report of other Chartered Accountant. The same can be clarified as under:-

<i>Particulars</i>	<i>Particulars as per Tax Audit Report of the Respondent</i>	<i>Particulars as per Project Report submitted with Vijaya Bank</i>
<i>Name</i>	<i>Nikhara Electronix& Allied Technics</i>	<i>Nikhara Electronics & Allied Technics</i>
<i>Status of the Firm</i>	<i>Proprietorship</i>	<i>Partnership</i>
<i>Name of the Proprietor/ Partnership firm</i>	<i>Mr. Venkataramana Bhat</i>	<i>Shri B. Lakshmana and Smt. Shanta Gowda</i>
<i>Address</i>	<i>No. 140, Vinayaka Layout, Uilal Main Road, Bangalore – 560 055</i>	<i>No. 75, Byraveswara Indl. Area, Andhrahalli Main Road, Hegganahalli, Peenya II Stage, Bangalore – 560 058</i>

3.3 In view of above dispute regarding identity of auditee firm and who availed credit facilities, the Committee is the opinion that the respondent though should have been more diligent in performing his duties but could not be held guilty in the absence of any charge sheet filed by the CBI after the considerable time of 5 years.

3.4 On the basis of the above findings, the Committee is of the opinion that the respondent is not guilty of any professional misconduct. However, the Committee feels appropriate and instructs the office to issue the respondent a letter of caution for performing his professional duties in diligent manner.

3.5 Accordingly, the Committee finds merits in his submission and holds 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 Clause (7) 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. CHANDRASHEKHAR V. CHITALE)
MEMBER**

**DATE :10.02.2020
PLACE : NEW DELHI**