

**CONFIDENTIAL**

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

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

**Findings under Rule 18(17) and 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No. : [PR/210/2015/DD/143/2016/DC/911/2018]**

**In the matter of:**

**CA Manoj Harivadan Lekinwala,  
Plot No.206/2, Sector 21,  
Near P.O.,  
District Shopping Central,  
Gandhi Nagar - 382 021**

**..... Complainant**

**Versus**

**CA. Ruchit Ramprakashbhai Shah ...(M. No. 144471)  
4, Aruradha Society, Part-I,  
Near GEB, Dehgam  
Dist. Gandhi Nagar,  
Gujarat - 400 705.**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Atul Kumar Gupta, Presiding Officer  
CA. Amarjit Chopra, Member (Govt. Nominee)  
CA. Rajendra Kumar P, Member  
CA. Chandrasekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 04.09.2019**

**PLACE OF FINAL HEARING : ICAI Bhawan, Mumbai**

**PARTIES PRESENT : None**

**Charge 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 is held guilty under Clause (1) of Part II of the Second Schedule of Chartered Accountant Act 1949.

The above said Clause (1) of Part II of the Second Schedule states as under:-

*“A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—*

*(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;”*

- 1.1 The Respondent has not ensured that whether the outstanding audit fees for Financial Year 2011-12 in respect of various entities was paid to the Complainant or not.

**Brief facts of the Proceedings and Findings:**

2. On the last hearing dated 21/07/2019, the Complainant and the Respondent were present in person. The Respondent made his submissions on the charges and the Complainant also made his contentions. The Committee posed questions to the Complainant and the Respondent. After hearing submissions, the Committee directed the Respondent and the Complainant to submit certain documents and the matter stands adjourned. On the day of hearing i.e. on 04/09/2019, neither the Complainant nor the Respondent was present. However, there was a withdrawal letter dated 07/08/2019 from the Complainant, in which he has submitted that *“I do not wish to peruse this complaint further and like to withdraw my said complain unconditionally against the Respondent and due to bad weather condition in Gujrat and Maharashtra, it would not possible for me to come on 10<sup>th</sup> August, 2019”*.

3. After considering all papers and above withdrawal letter available on record, the Committee decided to accept the withdrawal of this case in terms of Rule 6 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

The contents of above Rule are re-produced here as under:-

*“The Director, on receipt of a letter of withdrawal of a complaint by the complainant, shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or Committee, as the case may be, may, if it is of the view that the circumstances so warrant, permit the withdrawal, at any stage, including before or after registration of the complaint:*

*Provided that in case the Director has not yet formed his prima facie opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal”.*

### **Conclusion**

4. Thus, in view of contents of withdrawal letter and provisions of Rule 6, the Committee permitted the withdrawal of this case and files the papers.

**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: 10-02-2020**  
**PLACE: New Delhi**