

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-182/17/DD/230/2017/DC/1019/2019]

In the matter of:

**Shri Bhopender Pamnani
Jiwan Niwas Co-operative Housing Society Ltd.,
Ground Floor,
87, Khan Abdul Gaffar Khan Road,
Worli Seaface
MUMBAI 400 030.**

..... Complainant

Versus

**CA. Pankaj Jayantilal Joshi (M.No.034046)
M/s. Pankaj Joshi & Associates,
Chartered Accountants
202, Goradia House,
2nd Floor, Near ING Vysys Bank,
104, Kazi Sayed Street,
MUMBAI 400 003 .**

..... Respondent

MEMBERS PRESENT:

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

DATE OF HEARING : 06.01.2020

PLACE OF HEARING : ICAI Bhawan, Mumbai

PARTIES PRESENT:

Respondent : CA. Pankaj Jayantilal Joshi (M.No.034046)

Charges in Brief:-

1. *The allegation against the Respondent as per the complaint, in which he has been prima facie held guilty is that he has not disclosed in the Audit Report for the year ending 2011-2012 the title deed of the land, has been not in favour of Society i.e. Jeevan Niwas CGS Limited besides the payment of the principal amount and stamp duty.*

Brief facts of the Proceedings:

2. The Committee noted that the Respondent in person was present and appeared before it. The Complainant was not present and there was no intimation from him. The Respondent was administered oath. On being asked from the Respondent as to whether he is aware of the charges levelled against him, the Respondent replied in affirmative and pleaded not guilty. Thereafter, the Respondent made submissions on the charges. After hearing the final submissions, the Committee decided to conclude the hearing in the above matter.

Finding of the Committee

3. On the date of hearing, the Respondent in his submissions has submitted that the matter was sub-judice for many years and based on the Order of the Bombay High Court, Stamp Duty was paid and based on Stamp Duty, further documentation like Conveyance Deed was executed. Further, he obtained the management representation letter from the management, in which it was mentioned that this Society has filed a case before Bombay High Court vide a suit No. 4180 of 2007 against the developers, M/s. Jeevan Development Corporation, a partnership firm for executing Conveyance Deed in respect of the said property being plot No. 23/81, Khan Abdul Khaffar Khan Road, Worli, Seaface, Worli, Mumbai 400025.

3.1. On 03.06.2008, the Ld. Judge Shri S.P. Kulkarni of City Civil Court, Bombay passed an order in S.C.Suit No. 4180 of 2007 in term of prayer against defendants for directing them to execute conveyance deed in respect of suit property.

3.2 After adjudication of payment of stamp duty, the said authority vide order dated 13th December, 2011 has passed Order directing the Society to pay a sum of Rs.14,70,100 being the stamp duty payable in respect of the said City Civil Court Order and a sum of Rs.5,58,640/- being the penalty payable of the said Order. Thus, the Society has paid the money towards Stamp Duty during the year under audit for completion of the Conveyance.

3.3. Society has paid a sum of Rs.20,28,740/- being stamp duty payable on the said City Civil Court Order dated 03.06.2008 and a sum of Rs.100/- was also paid before registration of order of City Civil Court Bombay being the short fall as per the department order, and the Conveyance has been thus, completed.

4 The Committee noted that though the amount of Conveyance and Stamp Duty was paid and the Conveyance Deed duly executed but the title deed of the ownership of the Society was not in favour of Society. The Respondent was required to disclose in the audit report that the title deed is yet to be registered, so far the liabilities is concerned, it is as per adjudication and the same amount has already been paid. Keeping in view, the Substance of form, the land / property actually belongs to Society only, the Respondent was under bonafide belief that probably the Conveyance Deed might have been registered. However, the Committee noted that during the next financial year the Registration of the Title deed of the Society has been duly completed.

4.1 Keeping in view of the overall scenario, the benefit of doubt may be given to the Respondent as it is a case of mere negligence and not grossly negligent. Thus, the Committee holds the Respondent NOT GUILTY under this charge.

Conclusion:

5. Thus in conclusion, in the considered opinion of the Committee, the Respondent is held **NOT GUILTY** of 'Professional Misconduct' falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountant Act 1949.

Sd/-

**(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER**

Sd/-

**(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE**

Sd/-

**(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER**

Sd/-

**(CA. RAJENDRA KUMAR P)
MEMBER**

DATE : 10.02.2020

PLACE :New Delhi