

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

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

File No. [PR/97/2014-DD/148/2014/PR-96/2014-DD/147/2014(clubbed)/DC/738/18]

In the matter of:

Sh. N. Srinivasan

Director,
M/s Visram Financial Services Private Limited
D1, Shristi Crescendo,
24, Desika Road
Mylapore
CHENNAI- 600 004

.....Complainant

Versus

CA. R.M.V. Balaji (M.No. 027476)

M/s K. Ramkumar & Co,
Chartered Accountants,
A-1, 7th Floor, Tower-III,
Shakti Towers,
766 Anna Salai,
Chennai - 600 006

.....Respondent

MEMBERS PRESENT:

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Govt. Nominee**
- 3. CA. Chandrashekhar V. Chitale, Member**

DATE OF FINAL HEARING : 15.10.2019
PLACE OF FINAL HEARING : ICAI, CHENNAI

PARTIES PRESENT:

Counsel for Complainant : Advocate R. Subramanian
Respondent : CA.R M V Balaji
Counsel for the Respondents : CA. R. G. Rajan

Charge in brief:-

1. The charges in which the Respondent has been Prima Facie held guilty are as under:-

- 1.1 Signing of two sets of accounts with different share capital.
- 1.2 Allotment of shares beyond 30 Lacs.
- 1.3 Reduction in amount of share capital when compared with previous year.

Brief of Proceeding and Findings :-

2. This case was heard on 18th May, 2019 whereat the Counsel for the Complainant and the Respondent alongwith Counsel were present and appeared before it. The Respondent was put on Oath and charges were explained to him by the Counsel for the Complainant. On being asked whether the Respondent pleaded guilty, he replied in negative and wish to defend the charges.

2.1 The Committee directed the Respondent to make his submissions. The Counsel for the Respondent stated that it is not a valid complaint as there is no authorization with Mr. N. Srinivasan to file subject complaint. Even there was no board resolution for authorization of Mr. N. Srinivasan for filing this complaint with the ICAI.

2.2 After recording said plea of the Counsel for the Respondent, the Committee directed the Counsel for the Complainant to file said authorization and extract of respective board meeting within 15 days time.

2.3 Thereafter, this case was considered on 5th June, 2019 and the Committee noted that the Representative/Counsel on behalf of the Complainant and the Respondent along with his Counsel were present and appeared before it. As this case was part heard on 18/05/2019, the Committee enquired from the Counsel for the Respondent, whether he has complied with the directions of the Committee. The Counsel stated that he has filed the authorization of Shri N. Srinivasan, Director of the Complainant Company. After recording the submissions of the Counsel for the Complainant, the Committee adjourned the matter to a future date with the direction to produce the following documents:

- (i) Resolution/authorization appointing Shri R. Subramanian Counsel to argue this case before the Disciplinary Committee.
- (ii) To produce copy of the minutes book.

- (iii) The present Director as well as the earlier Director of the Company, be summoned as witness.

With above directions, the Committee adjourned the matter to future date.

2.4 Further, on 03rd July, 2019, the Committee noted that Counsel for the Complainant and the Respondent along-with Counsel were present and appeared before it.

The Committee enquired from the Counsel for the Complainant whether as per its earlier direction dated 05/06/2019, has he submitted minutes books of the meeting in which Complainant was authorized to file this complaint. The Counsel replied that same has already been filed at the time of filing this complaint i.e. in year 2014 itself. The Committee expressed its displeasure on the attitude of the Counsel and directed him to come up with minutes books on next day i.e. 04/07/2019 at 11.30 A.M.

With above directions, the Committee adjourned this case to next day.

2.5 Furthermore, on 29th July, 2019, the Committee noted that the authorized representative of the Complainant and the Respondent along-with Counsel were present and appeared before it. The Committee enquired whether the Directors of the Company are present for their witness as directed by it in earlier hearing. The office apprised that the summons were issued and even served upon them, but there is no intimation for their presence.

The representative of the Complainant submitted letter (s) of said witness (es) dated 26/07/2019 in which they have stated that this case is 5 year old and the Committee may complete the enquiry on merit basis without further delay.

The Committee rejected said plea of the witness (es) and was of the view that in this case witness of the Directors of the Company are essential and looking into the facts/merits of the case, the Committee adjourned this matter with specific directions that the Directors of the Company should be present in next meeting as witness.

Thus, the Committee adjourned the case to a later date.

2.6 On 15th October, 2019, the Committee noted that the authorized representative of the Complainant and the Respondent along-with Counsel were present and appeared before it. The Committee enquired whether the Directors of the Company are present for their witness as directed by it in earlier hearing. The office apprised that the

summons were issued and even served upon them, but there is no intimation for their presence.

The representative of the Complainant stated that said Directors would not appear and Directors of the Company has submitted their written representation vide letters dated 26/07/2019. The Committee noted with displeasure the contents of these letter, which are reproduced here as under:-

“It is reiterated that the entire effort of the Disciplinary Committee seems to be only to somehow try and derail the proceedings of enquiry against CA R M V Balaji as it is inconceivable that issue of authority of complainant raised earlier in 2014 and clarified at that stage itself would be raked up presently at stage of final enquiry in 2019 that too in a matter where such stage of final enquiry has been reached only after intervention of the Delhi High Court.

Without prejudice to our contention that the present notice/intimation is ex-facie not maintainable we reiterate our contentions and submissions in our letter dated 29.06.2019 in reply to summons/notice dated 24.06.2019 and state that the same may be taken as our reply to the intimation dated 12.07.2019 relating to hearing on 29.07.2019.

We therefore seek that the demand for our personal appearance at the proceedings may be dropped forthwith as it is ex-facie not maintainable and the Committee may proceed to conduct the enquiry expeditiously as provided under Chapter V of the Rules.

We reiterate that as already set out the Complainant company does not see any need for oral evidence on its past to prove the allegations which are all only matters of uncontroverted documents and the Committee seeking such presence of Complainant's present Directors without assigning any reasons therefor is untenable in law.

Needless to say Complainant Company through its Advocates has been insisting that the proceedings of enquiry in the matter herein be carried forward against the Respondent without delay as the case of professional and other misconduct against the Respondent is made out on the documents placed on record without need for any oral evidence on behalf of the complainant. We seek that given proceedings have been dragged for 5 years and more despite intervention of the High Court any further attempt to protract the proceedings is to be averted at all cost and the Committee is bound to complete the enquiry on merits without further delay”.

Moreover, the Committee noted that the said Director (s) vide letter dated 29/06/2019 had made derogatory remarks against the Institute and Disciplinary Committee, the contents of said letter are as under:-

“The issue of ineffectiveness of the Disciplinary proceedings conducted by the Institute of Chartered Accountants of India has received specific notice from topmost functionaries of the Government and substantial powers have been taken away from the Disciplinary Committee to the National Financial Reporting Authority”.

The Committee noted the above contents of the Directors of the Complainant Company and dismissed the said complaint with reason that inspite of issuing reminders to the Complainant i.e. Directors of the Complainant Company to appear before it for recording their statement, however they willfully remain absent without any valid reason. Further, looking upon the language used in said letter (s), the Committee was of the view that there is no meaning to proceed in this case as the Complainant has no faith in Disciplinary mechanism of the ICAI.

CONCLUSION :

3. Thus, the Committee dismiss the said case and exonerated the Respondent from all the allegations made against him.

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

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

**Sd/-
(CA. CHHANDRASHEKHAR V. CHITALE)
MEMBER**

DATE :10.02.2020

PLACE : New Delhi