

ORDER SHEET

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
INDRAPRASTHA MARG, NEW DELHI – 110 002

REPORT OF THE DISCIPLINARY COMMITTEE [BENCH-III (2018-19)]

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

In the matter of :

CA. Hojefa Hamjabhai Lokhandwala (M. No. 157127) in Re:

3638, Moti Voharvad

Kaji's Dhaba

Astodia Chakla

Ahmedabad - 380 001

----- Respondent

Members Present:

CA. Naveen N.D. Gupta, Presiding Officer

Shri R. Sridharan, IAS (Retd.), Member (Govt. Nominee)

CA. Shyam Lal Agarwal, Member

CA. Sanjay Kumar Agarwal, Member

Date of Final Hearing: 25th April, 2018

PLACE OF FINAL HEARING: MUMBAI

Parties Present: Respondent - CA. Hojefa Hamjabhai Lokhandwala

Allegations of the Informant:

1. In the extant case, RBI informed that the Respondent did wrong certification for the year 2013-14 in respect of the M/s Jalaram Finvest Limited (hereinafter referred to as the "Company"). The ratio of financial assets to total assets was shown at 100%


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whereas the correct ratio was 35.66% indicating that the Company failed to achieve dual criteria for year 2013-14. So, it is alleged that the Company failed to achieve dual principle business criteria as required in terms of Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015.

Proceedings:

2. At the outset, the Committee noted that the Respondent was present in person to appear before the Committee. Since this is the first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it can be taken as read. The Respondent stated before the Committee that he was aware of the allegations raised against him and the same may be taken as read. On being asked, as to whether he pleaded guilty, he replied that he does not plead guilty and would opt to defend his case.

Thereafter, the Respondent made his submission in the matter. The Respondent was examined by the Committee on the submissions made by him. The Respondent thereafter made his final submissions in the matter. Based on the documents available on record and after considering the oral and written submissions made by the Respondent before it, the Committee concluded the hearing in the matter.

Findings of the Committee :

3. It is alleged by the Informant that the Respondent did wrong certification for the year 2013-14 in respect of the Company which did not meet the dual principle business criteria as required in terms of Non-Banking financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015(D-1 to D-23). According to RBI, the ratio of financial assets to total assets was shown as 100%, (A4) whereas correct ratio was 35.66%.

4. The Respondent in this regard submitted before the Committee that the figures in the certificate were correctly mentioned. It is only a matter of calculation of ratio in terms of percentage. He submitted to have expressed percentage in relation to financial asset and not total asset. On reference from RBI, it is noted that the Respondent has corrected the basis of computation of ratio and submitted the same to

RBI.



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5. On perusal of papers on record, it is seen that in the certificate dated 10th January 2015 issued by the Respondent (A-4) the figures in amount were rightly mentioned pertaining to assets and income. The only mistake the Respondent did was that he calculated the percentage as 100% with respect to financial assets rather than total assets and accordingly, certified that the Company has continued the business of non-banking finance institution for the year 2013-14. However, on becoming aware of his mistake, the Respondent had rectified the percentage with reference to total assets and issued the revised certificate dated 18th January 2016 and accordingly, certified that the Company has not continued the business of non-banking finance institution for the year 2013-14 (B-7). In this regard, the Committee was of the view that since the Respondent has correctly mentioned the figures but only the basis of calculation of percentage was wrong which was an un-intentional error on his part and was later on rectified, leaving no material impact of the same. The Committee accordingly decided that the Respondent was 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.

Conclusion

6. Thus, in conclusion, in the 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 Accountants Act, 1949.

7. The Committee accordingly passes order for closure of this case against him.

Sd/-
(CA. Naveen N.D. Gupta)
Presiding Officer

Sd/-
[Shri R. Sridharan, IAS (Retd.)]
Member (Govt. Nominee)

Sd/-
(CA. Shyam Lal Agarwal)
Member

Sd/-
(CA. Sanjay Kumar Agarwal)
Member

Date : 26th June, 2018

Place : New Delhi

CA. Hojefa Hamjabhai Lokhandwal (M.No. 157127) in Re:

Certified True Copy

Ajay Kumar Jain
Assistant Secretary
Disciplinary Directorate

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ICAI Bhawan, I.P. Marg, New Delhi-110 002