



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

ORDER OF ABATEMENT OF THE PROCEEDINGS AGAINST CA. JITENDRA NATH DHAR (M. NO. 007117) ON ACCOUNT OF HIS DEATH.

File No. [PR- 18/2014-DD/54/2014/DC/648/2017]

Registrar of Companies,
Ministry of Corporate Affairs
"Nizam Palace", 2nd MSO Building
2nd Floor, 234/4, A.J.C. Bose Road
KOLKATA – 700 020

..... Complainant

-vs.-

CA. Jitendra Nath Dhar (M. No. 007117)
M/s G. Basu & Co.,
Chartered Accountants,
3 A, Chowringhee Approach,
Basu House,
KOLKATA – 700 001

..... Respondent

Members Present:

Smt. Anita Kapur, Presiding Officer (Govt. Nominee)
Sheri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)
CA. Shyam Lal Agarwal, Member

Date of Final Order: 28th December, 2018

Place of Final Order: Kolkata

1. That vide report dated 08.02.2018, the Disciplinary Committee was of the opinion that **CA. Jitendra Nath Dhar (M. No. 007117)** was GUILTY of Professional Misconduct falling within the meaning of Clauses (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 12th December 2018 was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 28th December 2018 at Kolkata. However, vide e-mail dated 24th December 2018, it was brought to the notice of the Committee that the Respondent had expired on account of prolonged illness. The death certificate of the Respondent was placed on record as well.



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3. The Committee noted that due to death of the Respondent, the matter became infructuous and accordingly the proceedings were abated.

4. Therefore, this Committee ordered that the proceedings in the matter against the Respondent CA. Jitendra Nath Dhar (M. No. 007117) be 'Abated'.

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Sd/-
[Smt. Anita Kapur]
Presiding Officer, Govt. Nominee)

Sd/-
[Shri Ajay Mittal, IAS (Retd.)]
Member (Govt. Nominee)

Sd/-
[CA. Shyam Lal Agarwal]
Member

Date: 28th December 2018

Place: KOLKATA

Certified Copy

[Handwritten signature]
Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate

The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2017-2018)]

[Constituted under Section 21B of the Chartered Accountants 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

Ref. No. [PR- 18/2014-DD/54/2014/DC/648/2017]

In the matter of:

Registrar of Companies,
Ministry of Corporate Affairs
"Nizam Palace", 2nd MSO Building
2nd Floor, 234/4, A.J.C. Bose Road
KOLKATA – 700 020

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Complainant

-vs.-

CA. Jitendra Nath Dhar (M. No. 007117)
M/s G. Basu & Co.,
Chartered Accountants,
3 A, Chowringhee Approach,
Basu House,
KOLKATA – 700 001

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Respondent

MEMBERS PRESENT:

CA. Naveen ND Gupta, Presiding Officer
Shri Amit Chatterjee, Government Nominee
CA. Sanjay Kumar Agarwal, Member
CA. Manu Agarwal, Member

DATE OF FINAL HEARING : 10.01.2018

PLACE OF FINAL HEARING : ICAI, Russel Street, KOLKATA

PARTIES PRESENT:

Complainant : Shri Vikram Singh, Deputy Registrar of
Companies. Kolkata

Finding of the Committee

1. On first day of hearing i.e. on 09/01/2018, the Committee noted that Deputy ROC was present from the Complainant department however. he was not carrying valid authority letter to represent this case on behalf of the Complainant Department. The office apprised the Committee that there is a letter dated 05/01/2018 from the wife of Respondent (Mrs. Subhra Dhar) stating that Respondent is bed ridden following cerebral attack and has lost his mobility as well as memory.
2. Looking into the circumstances of the case, the Committee decided to proceed in the matter ex-parte Respondent. The Committee instructed the Complainant to submit his authority letter till tomorrow i.e., till 10th January, 2018 and asked him to substantiate their charges. The Committee noted that the officer appeared on behalf of the Complainant department was not well prepared, therefore, the Committee decided to re-schedule the hearing in the captioned case for 10th January, 2018 with an instruction to the Complainant to come with proper authority letter and also with preparation to substantiate the charges of the department against the Respondent.
3. On next day of hearing, the Committee noted that Deputy ROC was present from the Complainant Department and as per its direction on 9th January, 2018, he submitted his authority letter to represent the Complainant department. The Committee also noted that the Complainant has also submitted one letter dated 09.01.2018 wherein it has been inter alia stated that the investigating officer Mr. A K Sahoo who investigated this case has been transferred to Delhi, therefore, either he may be called as witness to substantiate the charges or the Committee may decide the case based on available documents / papers on record. Since the matter was quite old, the Committee decided to decide the matter based on the available documents on record.
4. The Committee noted that there are four charges against the Respondent. The first charge is that for the financial period ending on 30.06.2009, the insurance claim of Rs. 63,733/- has been used to set off against insurance expenses instead of separately showing the same under the head 'other income'.

4.1 In view of overall size of the balance sheet which was Rs.26.12 crore, the Committee decided that the amount involved being not material, the benefit of doubt needs to be given to the Respondent. Accordingly, the Committee hold the Respondent NOT GUILTY on this count

5. The second charge in this matter is in respect of non-disclosure of contingent liabilities in the financial statements for the period ending in 2012 against the corporate guarantee given in favour of a group Company namely A. I. Champdani Industries Limited.

5.1 In this context, the Committee was of the view that the Respondent should ought to have been diligent and should have verified based on the material available with the Company and with the Regulator i.e. Registrar of Companies. It is noted that charges created during a period, were available in ROC online filings. Hence, plea of the Respondent that relevant papers or information was not available or same were not recorded in file or minutes is not acceptable.

5.2 Further, the charge of Rs.4.35 crore against the balance sheet size of Rs.26.12 Cr. was significant. Hence, omission of such information from the financial statements makes them misleading and thereby reflects gross negligence on the part of the Respondent in conducting audit and failing to report material misstatement in the financial statements of the said period. The Committee holds the Respondent GUILTY in respect of this charge.

6. As regards the third Charge relating to recording of the expenses pertaining to previous year in the financial statements of year ending in 2009 and 2010, the Committee was of the view that since amounts involved in this charge are nominal / immaterial involving to mere ranging from Rs. 7,000/- to 2.55 lacs looking to the overall size of balance sheet of the Company, the concept of materiality to be needs applied in the matter and accordingly, the Respondent NOT GUILTY on this charge.

7. Lastly it was alleged that the Company had undertaken various transactions with its related parties during the financial period but the same were not disclosed under Related Party Disclosures as required under AS 18. The Committee considered and

reviewed the balance sheet and other papers/documents of the Company available on record and the record provided by the Registrar of Company.

7.1 The Committee on detailed perusal of the same did not find any related party which have made transaction with the Company during the year The Committee examined the Balance Sheet of the Company with reference to the requirement of related party as provided in the Accounting Standard - 18 and did not find any related party which has the transaction with the Company as claimed by Registrar of Companies in its complaint which were required to be reported by the Respondent in his Audit Report. Accordingly, on the basis of material provided by the Complainant, under this charge, the Committtoc hold the Respondent NOT GUILTY in respect of this charge also.

Conclusion

- 8. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** only in respect of charge as contained in paras 5, 5.1 & 5.2 as above of professional misconduct falling within the meaning Clauses (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.


(CA. NAVEEN NÓ GUPTA)
PRESIDING OFFICER


(SHRI AMIT CHATTERJEE)
GOVERNMENT NOMINEE


(CA. SANJAY KUMAR AGARWAL)
MEMBER


(CA. MANU AGARWAL)
MEMBER

DATE : 08th February, 2018
PLACE : New Delhi