

DISCIPLINARY COMMITTEE [BENCH-III (2018-19)]

(Constituted under section 21B of the Chartered Accountants Act, 1949)

**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**

File No. : PPR/P/5/W/2013-DD/30/W/INF/2013/DC582/2017

In the matter of :

**CA Santosh Namdev Kasar, (M.No. 106055) in Re:
01, Meher Arcade
Dwarka,
Near Jandhe Park, Nashik
Maharashtra- 422011**

----- Respondent

Members Present:

**CA. Naveen N D Gupta, Presiding Officer
Shri Ajay Mittal, IAS(Retd.), Member (Govt. Nominee)
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Shyam Lal Agarwal, Member**

Date of Final Hearing: 20th November, 2018

Place of Final Hearing: Mumbai

Parties Present:

- (i) CA. Santosh Namdev Kasar - Respondent**
- (ii) Shri Bhupendra Shah - Counsel for Respondent**

Allegations of the Informant i.e Deputy Registrar, Co-Operative Societies, Nashik:

1. The Respondent was the statutory auditor of Silver Dale Co-operative Housing Society Ltd. (hereinafter referred to as "Society"). He had conducted audit of Society for the period 2006-07 to 2008-09 and while auditing, he had failed to point out various irregularities in the Society's accounts which were highlighted by another audit firm at the time of re-audit of the accounts of Society for the said period. It had been also alleged that in absence of the important records like AGM minutes Register, Members' Register, Cash book etc., which were not maintained by the Society, the Respondent had given Class "A" audit to the Society for the aforesaid audit periods.

Proceedings:

2. At the time of hearing on 20th November, 2018, the Respondent was present alongwith his Counsel to appear before the Committee and was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out, or these could be taken as read. The Respondent stated 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 did not plead guilty and would defend his case.

The Counsel for Respondent made his submissions in the matter before the Committee. The Respondent was examined by the Committee on the submissions made by him. The Counsel for 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 was alleged by the Informant that during audit of the society for the period 2006-07 to 2008-09, the Respondent failed to point out various irregularities in the Society's accounts which were highlighted by another audit firm at the time of re-audit. It had

been also alleged that in absence of the important records like AGM minutes Register, Members' Register, Cash book etc., which were not maintained by the Society, the Respondent had given Class "A" audit to the Society for the aforesaid audit periods.

4. During the hearing proceedings, the Bench noted that the Respondent in this regard had submitted his letter of engagement along with appointment letter given by the society for all the three financial years concerned (B5-B11). In addition to this, the Respondent also brought on record notices & minutes of member's meeting (B76-B86), copy of resolution passed in respect of re-audit of accounts of the society (B12-B15) and correspondence of management of the society with new auditors of the society regarding re-audit queries (B52-B75).

5. On perusal of papers on record, it is seen that from the terms mutually agreed upon in the letter of engagement (B7, B9 & B11) for the aforesaid years, the Respondent was to issue a draft audit report firstly which after approval of all the members was required to be filed before the Deputy Registrar. Thus, in absence of any contrary documents being placed on record and the averments made by the respondent, the Committee is of the view that the audit report submitted by the Informant department along with the complaint documents is not the final one. Moreover, on perusal of a letter sent by the Deputy Registrar of Co-operative Society, Nashik Taluka dated 04th June 2018 confirming the sanctity of its previous letter dated 21st July 2017 (*sic* 31st July 2017), it is seen that the Respondent had already been absolved from all the proceedings pending against him before the office of sub-registrar, Co-operative Society. Thus, the Committee noted that in such a scenario, there remained no case of professional or other misconduct against the Respondent as the Informant department itself had withdrawn the case and adjudged the Respondent not guilty. Accordingly, the Committee decided that the Respondent is 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 in respect of the aforementioned allegations.

Conclusion

6. Thus, in conclusion, in the opinion of the Committee, the Respondent is **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/-
[Anita Kapur]
Member (Govt. Nominee)

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

Sd/-
[CA. Shyam Lal Agarwal]
Member

Date : 11th January, 2019

Place : New Delhi



Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
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