

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2018-2019)]**

**[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]**

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

**File No. : [PR/247/2015/DD/86/2016/DC/817/2018]**

**In the matter of:**

**Sh. Lokendra Joshi,  
D-3 New Colony,  
Guman Pura,  
Opp. Multipurpose School, Kota,  
Rajasthan — 324007**

**.....Complainant**

**Versus**

**CA. Pritam Kumar Goswami...(M. No. 075610)  
M/s ASAP Associates (FRN 05713N),  
5-6-7 III Floor, Deep Shree Building,  
Gumanpura,  
Opp. Mutipurpose School,  
Kota, Rajasthan — 324007**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Prafulla P. Chhajed, Presiding Officer  
Shri Rajeev Kher, Government Nominee  
CA. Mangesh P. Kinare, Member  
CA. Sushil Kumar Goyal, Member**

**DATE OF FINAL HEARING : 15.01.2019**

**PLACE OF FINAL HEARING : ICAI Bhawan, New Delhi**

**PARTIES PRESENT:**

**Respondent : CA. Pritam Kumar Goswami  
Council for Respondent : CA. Anil Jain**





**Charges in Brief:-**

1. The Respondent was involved in full time coaching while he was in practice as a Chartered Accountant.

**Brief facts of the Proceedings:**

2. On the day of hearing, the Committee noted that the Respondent alongwith his Counsel was present and appeared before it and was put on oath. The Office apprised the Committee that the Complainant is not present. He was contacted over phone and he informed that the Committee may proceed further based upon papers on record.

In the absence of the Complainant, the Office explained the charge in which the Respondent was Prima Facie held Guilty. On being asked by the Committee, the Respondent pleaded not Guilty and wished to defend the charges.

The Respondent submitted that he has appointed CA. C.V. Sajan as his counsel to defend the charges, however, as informed earlier through mail, he is not available today. The Committee directed him to proceed ahead with the submissions as he and his Counsel is present. The Respondent/Counsel submitted certain papers before the Committee at the time of hearing.

Further, the Respondent submitted that he has already submitted the papers and the matter may be decided on the basis of the documents already on record. The Committee informed the Respondent that no further opportunity of hearing will be given to him and the matter will be decided on the basis of his written submissions on record.

After recording the submission of the Counsel for the Respondent, the Committee directed him to provide following documents within 7 days time:-

- (i) Personal Income Tax Returns for last three financial years.
- (ii) Audited Balance Sheet and Tax Audit Report of coaching Institute managed/run by him.
- (iii) Audited Balance Sheet and Tax Audit Report of his Chartered Accountant firm.



(iv) A list of clients of last three financial years for whom audit has been done by his firm.

With above directions, the hearing in the captioned matter was concluded.

### Findings of the Committee

3. The Committee noted that there is only one charge against the Respondent which is elaborated in para 1 above. Further, it also considered the written submissions of the Respondent submitted before it at the time of hearing, which is quoted as under:-

3.1 *"It is wrong that he was taking ten classes per day i.e. involved in full time coaching. The actual fact is that he was taking a couple of classes of 45 minutes each on honorary basis. He was fully involved in his profession and his involvement with coaching used to be during morning hours and on too select days mostly depending upon his availability.*

3.2 *The classes taken by him does not exceed 20 hours per week. Further, a confirmation from CICA in this regard and an affidavit of him is also there.*

3.3 *He was non-executive director and was acting within the remits of the ICAI Regulations. It was his impression that prior approval to act as faculty in a coaching Institute would be necessary only when it was done for financial benefits.*

3.4 *He has resigned from directorship of the Company w.e.f. 07/03/2017 and from that date he doesn't have any stake in the Company as well.*

3.5 *He took permission to take classes in CICA in May, 2017 from the ICAI".*

4. Further as per the directions of the Committee, the Respondent has brought on record the following documents, which are as under:-

4.1 Income Tax Return (s) of himself for financial years 2015-2016, 2016-2017 and 2017-2018.

4.2 Audited Balance Sheet, Audit Report and Tax Audit Report of the Company for financial years 2015-2016, 2016-2017 and 2017-2018.

4.3 Tax Audit Report and audited Balance Sheet of the Respondent's firm for financial years 2015-2016, 2016-2017 and 2017-2018.

4.4 A list of clients for last three years for whom audit was done by Respondent firm.



5. After considering the above submissions of the Respondent, the Committee also perused the papers/documents brought on record by the Respondent. After perusal of Income Tax Returns of the Respondent, the Committee noted that there is only sitting fees which was received by the Respondent as a Director and there is no other income whatsoever from the Company or coaching Institute.

6. Further, from the Audited financial statements of the Respondent's firm, it is evident that the Respondent has received remuneration from the firm and same has been shown in income tax computation. Moreover, it is noted from Form 32 that the Respondent was appointed non-executive Director of the Company on 15/06/2010 and he resigned on 07/03/2017. Furthermore, the Respondent has also received permission of the Council for engagement as visiting faculty in CICA vide letter dated 02/06/2017 of the ICAI.

7. In view of above noted findings, the Committee was of the opinion that the Respondent was a non-executive Director in the Company and getting sitting fees only. Further, he is also taking classes in coaching Institute but there is no evidence which show that he has violated the provisions of Chartered Accountant Act and Regulation framed thereunder.

8. Moreover, on perusal of various documents brought on record by the Respondent as per the directions of the Committee, there is no adverse document, which prove that he was involved in full time coaching and had received any benefit from the same.

### Conclusion

9. 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 (1) of Part II of the Second Schedule to the Chartered Accountant Act 1949.

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10. Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case against the Respondent.



Sd/-  
(CA. PRAFULLA P. CHHAJED)  
PRESIDING OFFICER

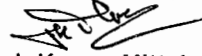
Sd/-  
(SH. RAJEEV KHER, I.A.S. (Retd.)  
GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P. KINARE)  
MEMBER

Sd/-  
(CA. SUSHIL KUMAR GOYAL)  
MEMBER

DATE : 05<sup>th</sup> February, 2019  
PLACE : New Delhi

Certified True Copy



Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
ICAI Bhawan, I.P. Marg, New Delhi-110 002