



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

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

File No. : [PPR/98/2015-DD/79/INF/15-DC/822/2018]

In the matter of:

CA. Somi Setty Rajasekhar (M.No.211943)

D.No.40-321D, 2nd FLOOR,
Haji Gulam Hussain Arcade,
Behind Chandana Brothers,
Abdullah Khan Estates,
602, 6th Floor , Express Chamber,
KURNOOL– 518 001

..... Respondent

Members present:

CA. Atul Kumar Gupta, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. Manu Agrawal, Member

Date of Final Hearing: 2nd July 2020 through Video Conferencing

Place of Hearing: Gurugram

Party Present:

CA. Somi Setty Rajasekhar (M.No.211943) – Respondent

1. Vide report dated 10th February, 2020 (**copy enclosed**), the Disciplinary Committee was of the opinion that **CA. Somi Setty Rajasekhar (M.No.211943)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949 with respect to part time tutorship under the name of Master Chartered Academy while holding full time Certificate of Practice. It was also stated that classes were running within the Kurnool branch premises of ICAI.

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 15th June 2020 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 2nd July 2020 through video conferencing.

3. The Respondent appeared before the Committee on 2nd July 2020 through video conferencing from ICAI Centre of Excellence, Hyderabad and made oral submissions wherein he had inter-alia stated the Master Chartered Academy was the tuition point of

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his spouse and due to his experience in the academics for Chartered Accountancy course, he was requested to provide services as an Academic Advisory Director. The Respondent supported his wife but only in hours other than his office hours. It was further stated by the Respondent that he was not aware of the ICAI Regulations regarding specific permission of the Council required for part time tutorship being done by him. It was a technical omission which happened inadvertently for which he might be pardoned and given the benefit of doubt.

4. The Committee considered the oral submissions made by the Respondent and noted that that the Respondent had himself admitted that he was providing part time tutorship in his wife's private coaching Institute i.e. Master Chartered Academy. However, in terms of provision of Cause (11) of Part I of First schedule to the Chartered Accountant Act 1949, he was required to obtain specific and prior approval of the Council for accepting part time tutorship under Master Chartered Academy which the Respondent did not sought from ICAI. The Committee noted that in extant case, it is held that the Respondent has failed to comply with the Regulation 190A of the Chartered Accountants Regulations, 1988.

5. The Committee was thus of the opinion that the misconduct on the part of the Respondent has been held within the meaning of Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the Respondent be reprimanded and a fine of Rs. 50,000/- be imposed upon the Respondent.

Sd/-
[CA. Atul Kumar Gupta]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member, (Govt. Nominee)
(approved & confirmed through e-mail)

Sd/-
[Shri Ajay Mittal]
Member, (Govt. Nominee)
(approved & confirmed through e-mail)

Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member
(approved & confirmed through e-mail)

Sd/-
[CA. Manu Agrawal]
Member
(approved & confirmed through e-mail)

Date : 2nd July, 2020 through Video Conferencing

(Mohita Khanna)
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India

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

[Constituted under Section 21B of the Chartered Accountants (Amendment) 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.

File No. : IPPRV98/2015-DD/79/INF/15-DC/822/2018

In the matter of:

CA. Somi Setty Rajasekhar (M.No.211943), Kurnool in Re:
D.NO.40-321D, 2nd FLOOR,
HAJIGULAM HUSSAIN ARCADE,
BEHIND CHANDANA BROTHERS,
ABDULLAH KHAN ESTATES,
602,6TH FLOOR, EXPRESS CHAMBER,
KURNOOL– 518 001

..... Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Member (Govt. Nominee)
CA. Chandrasekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 15.10.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT :

Respondent : CA. Somi Setty Rajasekhar
Counsel for Respondent : CA. C.V. Sajan

Charges in Brief:-

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules,

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2007, the Respondent is held prima facie guilty of Professional and Other Misconduct falling within the meaning of Clause (2) of Part-IV of First Schedule and Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949. The above said Clause (2) of Part IV of First Schedule states as under:-

"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work"

Clause (1) of Part II of the Second Schedule states as under:-

"(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;"

2. The issue is an information case. There are two allegations on the Respondent. The allegations are as follows:-
 - i. In spite of being Secretary of Kurnool branch of Southern India Regional Council (SIRC) of the Institute of Chartered Accountants of India (ICAI), the Respondent was involved in running private coaching Institute i.e. Master Chartered Accountants Institute within the Kurnool branch premises of ICAI.
 - ii. The Respondent was putting the name of Institute on the mock test paper developed by ICAI for its student under various course such as Common Proficiency Test (CPT) and Integrated Professional Competence Course (IPCC) level by replacing name of the later.

Brief facts of the Proceedings:

3. On the day of hearing, the Respondent with his Counsel appeared before the Committee. The Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wishes the charge to be read out or it can be taken as read. The Respondent stated before the Committee that he was aware of the charges made against him and same may be taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wishes to proceed with his defence. Thereafter, the Respondent placed his defence. After considering all papers available on record, the Committee decided to proceed with the matter.




Findings of the Committee

4. The Committee noted the submission of the Respondent wherein he submits that the entire allegations is nothing but politically motivated efforts to malign his image and since the day the charges are made against him, he not only recused himself from the branch activity but also disassociated himself from the said coaching institute.
5. The Respondent on being asked by the Committee as to who was teaching in the said institute, the Respondent has admitted that he was providing part time tutorship in his wife's private coaching institute i.e. Master Chartered Academy. The Respondent in terms of provision of Cause (11) of Part I of First schedule was required to obtain specific and prior approval of the Council for accepting part time or full time tutorship under Master Chartered Academy. In this regard 'Para B' is being quoted that is "Permission to be granted specifically" as given under Appendix (9) of CA Regulations, 1988", wherein it has been stated that:-
"Members of the Institute in practice may engage in the following categories of business or occupations, after obtaining the specific and prior approval of the Council in each case:-
(7) Part time or full time tutorship under any educational institution other than the Coaching Organisation of the Institute"
6. The Committee noted the submission of the Respondent's Counsel wherein he submits that the documents that have been on record i.e. 'Page B9 of PFO' and this document having the names of Adi Narayana and Hari Prasad both these persons were contacted by the Institute but they have not responded to anything and so the subject to matter was limited to only these two technical points of the permission. So that of permission point, the Respondent was not aware about that technical omissions for which the Respondent may be given the benefit of doubt that he was not fully aware of the rules and regulations.
7. The Committee enquired from the Respondent that whether he was involved in taking the academic session in the said Institute. The Respondent stated that the Master Chartered Accountancy Academy is a tuition point of his wife and due to his experience in Chartered Accountancy course, he was requested to provide services as an academic and as advisory Director but he was doing this activity after the office hours only.

8. The Committee with regards to first charge noted that the Respondent in terms of provision of Cause (11) of Part I of First schedule was required to obtain specific and prior approval of the Council for accepting part time or full time tutorship under Master Chartered Academy. Since the Respondent has not informed about any such permission obtained by him from the ICAI. The Respondent is held guilty in terms of the provisions of Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949.
9. The Committee noted that in relation to the second charge, i.e. misuse of mock test paper by the Respondent, there are only the photocopies of certain mock test papers submitted as information by the Informant. There is no evidence available on record which can substantiate/corroborate the allegations. Therefore, the Committee is of the view that the charges are not being proved beyond doubt. Accordingly, the Committee decided to absolve the Respondent from this charge. The Charge under clause (2) of Part II of the First Schedule is not getting substantiated.

Conclusion

10. In view of the above the Committee is of the opinion that the Respondent not adhering to the guidelines issued by the ICAI and the Respondent has not obtained permission from ICAI for this purpose. Accordingly, in the considered opinion of the Committee, the Respondent is **GUILTY** in terms of Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949.


Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

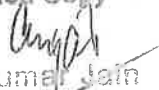
Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE: 10-2-2020
PLACE: New Delhi

Certified Copy

Certified Copy


Ajay Kumar Jain
Deputy Secretary