

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2020-21)]

[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

File No. : PR-274/2016/DD/294/16-DC-736/2017

In the matter of:

Mr. T. Sharath Babu

Director,
M/s Wholesale Trading services India Private limited,
Basement, "Kalyan" No. 4,
Jyothi Venkatachallum Road,
Vepery,
CHENNAI – 600 007

.....Complainant

Versus

CA. G. Venkateshwara Rao (M. No. 024182)
M/s Ramraj & Co.,
Chartered Accountants,
No. 65, IV Floor, 29th A Cross Geetha Colony,
4th Block, Jaynagar,
BENGALURU – 560 011

.....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: 24th August, 2020 through Video Conferencing

PARTIES PRESENT:

The following Parties were present:

- (i) R Subramanian, Advocate – Counsel for the Complainant (appeared from his personal location at Chennai)
- (ii) CA. G Venkateshwara Rao – the Respondent (appeared from his office at Bengaluru)
- (iii) CA. C V Sajan – Counsel for the Respondent (appeared from his office at New Delhi)



Allegations of the Complainant

1. **Mr. T. Sharath Babu, Chennai**, (hereinafter referred to as the “**Complainant**”) has filed complaint in Form ‘I’ dated 24th October, 2016 (**C-1 to C-16**) along with enclosures (**C-20 to C-973**) against **M/s Ramraj & Co., Chartered Accountants, Bengaluru (FRNo. 002839S)** (hereinafter referred to as the “**Respondent Firm**”) which declared **CA. G Venkateshwara Rao** (hereinafter referred to as the “**Respondent**”) as **member answerable** on behalf of the Respondent Firm.

1.1 The Complainant has alleged the following charges against the Respondent:

1.2 In the first charge, it was alleged that the assets of the Company were diverted for personal benefit of the Directors as under:

- a. That gifts totalling Rs. 8177 crores at the then prevailing market value were made by the 3 Companies namely M/s. Napean Trading and Investment Company Private Ltd., M/s. Regal Trading and Investment Company Private Ltd. And M/s. Vidhya Trading and Investment Company Private Ltd. which were alleged to be examined by auditor in 2010-11 (**C-9**) to Azim Premji Trust, a Trust Controlled by Director of the aforesaid three transferor Companies.
- b. That further gifts valued at Rs. 4044 crores, were made by partnership firms in which the said three companies and their wholly owned subsidiaries had 35% stake in 2012-13 (**C-9 to C-10**) to Azim Premji Trust, a Trust Controlled by Director of the 3 transferor Companies.
- c. The said three companies had funded interest free amounts to the partnership firms in which they were minority partners and the Director of each of the said three Companies was the majority partner owing 65% stake and thus the beneficiary of interest free loan (**C-10 to C-11**).

The Complainant alleged that despite a sum of Rs. 12500 crores having been taken away from the Companies without any consideration to enrich a private trust of the Director, the Respondent has reported in each of the 3 reports at para 10.3 (**C-33, C-44 and C-55**) that no undue benefit have been derived by the Directors directly or indirectly. According to the Complainant, the said statements of the Respondent was false and contrary to the record as affairs of the Company were conducted in manner prejudicial to the interests of the members.

1.2 The next charge was that the transferor Companies acted in violation of RBI regulations by in respect of compliance requirement of corporate governance and exposure norms.

1.3 The last allegation was that the subsidiaries of transferor companies were carrying on NBFC business without RBI registration.

Proceedings

2. The Committee noted that the Counsel for the Complainant and the Respondent along-with his Counsel were present for the hearing. Thereafter, they all gave a declaration that there was nobody except them in their respective room from where they were appearing before the Committee and that they would neither record nor store the proceedings of the Committee in any form. Before proceeding further in the matter, the Committee noted that there was change in the constitution of the Committee since its last hearing and therefore decided to initiate hearing in the matter as afresh.

Thereafter, the Counsel for the Complainant presented the allegations raised against the Respondent. The Committee, thereafter, examined the Counsel for the Complainant in the matter. The Counsel for the Respondent made his submissions on the allegations and was examined by the Committee on the facts of the case. The Counsel for 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 both parties before it, the Committee concluded hearing in the matter.

Findings of the Committee

3. The Committee noted that the Director (Discipline) in his prima facie opinion dated 14th September 2017 had held the Respondent not guilty of alleged misconduct but the Board of Discipline, at its 87th meeting held on 9th November 2017 considered the prima facie opinion of the Director (Discipline) along with the Complaint, Written Statement, Rejoinder and additional documents on record. The Board on consideration of the same was of the view that inspite of a sum of Rs. 12,500 crores being gifted to Azim Premzi Trust which was controlled by the directors of the 3 transferor companies and interest free loans being given to partnership firms in which director of the 3 transferor companies had a majority share i.e. 65 %, the Respondent reported in each of the 3 reports of the transferor companies that no undue benefit had been derived by the directors directly or indirectly.

Accordingly, the Board did not agree with the prima facie opinion of the Director that the Respondent is NOT GUILTY of Professional Misconduct falling within the meaning of Clauses



(5) to (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and referred the matter to the Disciplinary Committee to proceed under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Accordingly, the Committee conducted further inquiry in the extant matter against the Respondent on the charges alleged in the instant complaint.

4. The Committee noted the oral as well as the written submissions made by both the Complainant and the Respondent in the matter through their authorised Counsels. The Committee noted on perusal of the order of Hon'ble High Court of Karnataka (**W-34 to W-42**) that on an application by M/s Napean Trading and Investment Company Private Limited, M/s Regal Trading and Investment Company Private Limited and M/s Vidhya Trading and Investment Company Private Limited and M/s Harsham Investment and Trading Company Private Limited, the first three mentioned companies were amalgamated with the fourth mentioned Company. During the course of amalgamation, services of the Respondent were sought by Official liquidator (**W-38**) appointed by the Court for verification of books and accounts of first three mentioned Companies.

Accordingly, the Respondent was appointed under the orders of the Hon'able High Court of Karnataka for verification of books and papers of M/s Napean Trading and Investment Company Private Limited, M/s Regal Trading and Investment Company Private Limited and M/s Vidhya Trading and Investment Company Private Limited and to submit report in view of the provisions of Sec 394(1) of the Companies Act, 1956 (**W-30 to W-33**). The Respondent firm, accordingly, on 25.11.2014 submitted its reports in respect of M/s Napean Trading and Investment Company Private Limited (**C-25 to C-34**), M/s Regal Trading and Investment Company Private Limited (**C-37 to C-45**) and M/s Vidhya Trading and Investment Company Private Limited (**C-48 to C-56**).

5. The Committee further noted that the Respondent conducted the audit on behalf of the Respondent firm whereby he, on verification of records, gave his opinion in the reports to the official liquidator. Thus, the Committee viewed that the appointment of the Respondent was made under the Orders of the Hon'ble High Court of Karnataka and that the reports prepared by him were placed before and considered by the Hon'ble High Court of Karnataka. Accordingly, the Committee was of the view that the the said report of the auditor was the property of the Hon'ble High Court of Karnataka which alone could pass any order on the same. It also noticed that the matter was sub judice and the Committee had no jurisdiction to take cognizance of the

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same. It is only the Hon'ble High Court of Karnataka which can take a view on the Report of the Respondent. The Committee can take any action in the matter only if an order to this effect is passed by the Hon'ble High Court of Karnataka and its continuing with an inquiry in the present complaint would not be appropriate. Accordingly, the extant complaint was dismissed by the Committee.

Conclusion :

6. Thus, the Committee dismissed the extant Complaint. However, the Complainant has right to file case before the Disciplinary mechanism of the Institute with the copy of Order of the Hon'ble High Court of Karnataka.

(Handwritten mark)

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: 16th December, 2020 (through video conferencing)

Certified to be true copy
Mohita Khanna
CA. Mohita Khanna
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

