

CONFIDENTIAL

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

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

File No. : [PR 238/16-DD/274/2016-DC/1127/2019]

In the matter of:

Shri P.P. Sagar,

16-7-464/13,S.B.H. Colony, Saifa Post,
Malakpet, **Hyderabad - 500024**

.....Complainant

Versus

CA. B. Narsing Rao, (M.No. 022001)

(M/s. B. Narsing Rao & Co,)

Plot No. 554, Road No. 92,Opp. Apollo Nursing School,
Jubilee Hills,

Hyderabad – 500033

.....Respondent

MEMBERS PRESENT:

Smt. Anita Kapur, Presiding Officer & Member (Govt. Nominee)

Shri Ajay Mittal, Member (Govt. Nominee)

CA. Chandrashekar Vasant Chitale, Member

CA. Manu Agrawal, Member

Date of Final Hearing: 23rd November, 2020 through Video Conferencing

The following parties were present (through video conferencing):

- (i) Sh. P.P. Sagar- Complainant**
- (ii) Sh. Sadiq Hussain –Counsel for the Complainant**
- (iii) CA. B. Narsingh Rao – Respondent**
- (iv) CA. R. G. Rajan – Counsel for Respondent**
- (v) CA. R. Sundararajan – Counsel for Respondent**

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, 2007, the Respondent was prima facie held 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. The said Clause to the Schedule state as under:-

Second schedule

Part I

“(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity and

“(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;”

Allegations of the Complainant:

2. The Complainant in his complaint against the Respondent firm referring to the membership number of the respondent had alleged as under:-
 - 2.1 The Respondent had shown work-in-progress – Pharmacy & Engg Building of Rs. 34,00,824/- in Audited Books of Accounts and Audit Reports for the Year 2012-13 of A.V. Educational Society (hereinafter referred to as the “**Society**”).
 - 2.2 The Respondent had not verified regarding the Permission to start the A.V. Pharmacy and Engineering College was issued by the AICTE, Hyderabad before taking up the Audit Work.
 - 2.3 The Respondent had not verified the Building Permission to construct the Building of A.V. Pharmacy and Engineering College, issued by the Municipal Authorities i.e. GHMC, Hyderabad before taking up the Audit Work.
 - 2.4 The Respondent had failed to verify physical existence of Building of A.V. Pharmacy and Engineering College in the A.V. College Premises of A.V. Educational Society, Hyderabad, before taking up the Audit Work.

2.5 The Respondent had shown fixed Assets of Rs.37,86,717/- and Work-in-Progress for Pharmacy & Engg. Building of Rs. 3,91,796/- and claimed a Depreciation of Rs. 4,34,187/- in his Audited Books of Accounts and Audit Reports for the Year 2013-14 of A.V. Educational Society, Gaganmahal, Hyderabad, 500029.

Proceedings:

3. At the outset on 23rd November 2020, the Committee noted that the Complainant alongwith his authorised Counsel and the Respondent alongwith his Counsels were present during the hearing. Thereafter, they all gave a declaration that there was nobody except them in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. Being the first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Counsel for the Respondent stated before the Committee that he was aware of the charges made against him and the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, his Counsel replied that the Respondent did not plead guilty and opted to defend his case. Thereafter, the Counsels for the Respondent made submissions in the matter. The Committee examined both the Counsel for the Complainant and the Respondent on the submissions made by them. Thereafter, the Counsel for the Respondent made final submissions in the matter. Based on the documents and information available on record and after considering the oral and written submissions made by the Respondent, the Committee concluded hearing in the matter.

Findings of the Committee:

4. The Committee further, noted that the erstwhile Disciplinary Committee at its 176th Meeting held on 20th April 2018 considered the prima facie

opinion dated 05th March, 20 18 of the Director (Discipline) along with the Complaint, Written Statement of the Respondent and Rejoinder of the Complainant wherein it was opined that in respect of the allegations made in the instant complaint, the Respondent being member answerable was GUILTY of professional misconduct falling within the meaning of Clauses (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. The Committee upon consideration, in terms of Rule (9) (2) (c) of Chartered accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, decided to refer back the matter for further investigation by the Director (Discipline) with an advice to seek clarification from the Respondent as to *"whether he is just replying on behalf of signing partner or he is responsible for the charges as contained in the complaint"*. The Respondent vide letter dated 04th January 2019 **(D-3)** submitted that the Respondent specifically mentioned that he had made submissions on behalf of the signing partner and that the signing partner was responsible for charges, if any, created out of the complaint contained in extant complaint.

Thereafter, the modified prima facie opinion dated 15th March, 2019 of the Director (Discipline) along with the earlier prima facie opinion dated 5th March 2018, Complaint, Written Statement and Rejoinder on record was considered by the Board of Discipline at its 122nd meeting held on 11th and 12th September 2019. The Board on consideration of the same did not accept the submissions made by the Respondent vide his letter dated 4th January 2019 and thus did not agree with the prima facie opinion of the Director (Discipline) that the Respondent was NOT GUILTY of professional misconduct falling within the meaning of Clauses (6) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and thus, decided to refer the case to the Disciplinary Committee to proceed under Chapter V of the Chartered Accountant (Procedure of Investigations of Professional and

Other Misconduct and Conduct of Cases) Rules, 2007. Accordingly, the Committee held the enquiry on the date of hearing on the allegations in which the Director (Discipline) in his prima facie opinion dated 5th March, 2018 held the Respondent guilty of the alleged charges which is listed at Sl.No.1.3 and 1.5 above.

5. The Committee noted the oral submissions as well as written submissions dated 5th march 2020 and 11th November 2020 as made by the Respondent before it wherein he inter-alia stated that the complaint was filed against the firm and since the said letter was addressed to him, he undertook the responsibility of filing the written statement on behalf of the firm and on behalf of the partner who signed the Financial statements which were the subject matter of the complaint. In the said letter he had clearly stated that the audit of the society was conducted by another partner and he responded to the complaint only because his membership number was quoted in the complaint and he was not connected to the complaint and did not make any submissions on the charges alleged in the complaint or on the correctness of the financial statements which were the subject matter of the complaint. He further stated that the complainant did not have any relationship with the Andhra Vidyalaya Educational Society and was not concerned with its financial statements which were the subject matter of the complaint, in any manner whatsoever. Therefore, the complainant, who claimed himself to be a social worker, did not have locus standi to file a complaint with respect to the financial statements of the educational society.

6. The Committee in this regard noted that the Respondent was not the signing partner in the extant case and the audit was conducted for the two financial years i.e. 2012-13 and 2013-14 by another partner of the Respondent Firm namely CA.C.Maheshwar Reddy (M.No.221388). The Committee further noted that the proceedings had already been initiated

against the other partner who had audited and signed the Financial Statements of the Society in an information case. The Committee accordingly, viewed that since the Respondent in the extant matter had not carried out the professional assignment and had submitted the written statement only with the sole motive of convenience and quick disposal of the case, therefore, the Respondent could not be considered as the partner responsible and, thus, decided to drop the proceedings against him.

Conclusion :

7. Thus, in conclusion, in the considered opinion of the Committee, the Respondents are held NOT GUILTY of professional misconduct falling within the meaning of Clauses (6) and (7) of Part I of Second Schedule of Chartered Accountants Act, 1949.

Order:

8. 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 ordered closure of the extant case against the Respondent.

**Sd/-
[Smt. Anita Kapur]
Presiding Officer & Member, (Govt. Nominee)**

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

**Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member**

**Sd/-
[CA. Manu Agrawal]
Member**

**DATE: 22nd January, 2021
PLACE: New Delhi**