

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – III (2020-21)]**  
**[Constituted under Section 21B of the Chartered Accountants Act, 1949]**

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

**File No. : PR-20/2017/DD/45/2017/DC/1150/2019**

**In the matter of:**

**Mr. Ashok Dhariwal,**  
2<sup>nd</sup> Floor, Shravanee Pride,  
Flat No. 201, No 7, Market Road,  
Gandhi Bazar,  
**Bangalore – 560004**

**.....Complainant**

**Versus**

**CA. Ashok Kumar Pincha (M.No. 212109)**  
M/s. Pincha & Co.,  
Chartered Accountants  
No.1157, 2nd Floor, 20th Cross  
5th Main, 7th Sector, Behind South Inn Hotel  
HSR Layout  
**Bangalore – 560 102**

**.....Respondent**

**MEMBERS PRESENT:**

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

**Date of Final Hearing: 26<sup>th</sup> October, 2020 through Video Conferencing**  
**Place of Final Hearing: New Delhi**

**PARTIES PRESENT:**

- (i) CA. Ashok Kumar Pincha – Respondent**
- (ii) Shri R. Subramaniam – Counsel for Respondent**

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**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 held prima facie guilty under Clause (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*

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

**Charges of the Complainant with brief background:**

2. In the extant case, the Complainant was a Working Partner in M/s. Paramount Vijetha Holdings (hereinafter referred to as the “**Firm**”), in terms of serial number 2 Clause 5 of the Partnership Reconstitution Deed executed on 19<sup>th</sup> October 2017 (**W-14 to W-21**). The Respondent was the Statutory Auditor of the said Firm. It was alleged that the Respondent had, on request of Managing Partner of the Firm, issued a Certificate dated 18<sup>th</sup> March, 2016 (W-12) certifying certain information related to project like total sale value, total cost of construction, no. of total flat built, no of total developer flat, no of total landlord flat, closing stock in sqft., closing stock in flats, statutory liability of firm etc. to the Complainant firm for purpose of submission to Hon’ble Karnataka High Court.

3. In the above backdrop, the Complainant has made following allegations against the Respondent:

(i) That the Respondent had provided false information in the said Certificate in collusion with managing partner, along with other 3 partners of the firm. It was alleged that on the date of issuance of Certificate, the Firm had only two flats in stock whereas the Respondent had certified as 44 flats in stock. It was stated that due to the said Certificate issued by the Respondent, the Complainant had lost most of his claims in the MFA no.

7923/2015(**C-16 to C-29**) filed before Hon'ble High Court of Karnataka, Bangalore dated 15th October, 2015 which had caused huge financial loss, insult and humiliation in society. (ii) that the Complainant vide his letters dated 15th September, 2016 & 14th October, 2016 (**C-5 to C-11**) had sought certain accounting details like i.e. detail of sale of all flats, detail of all expenses, detail of payment made to vendors, detail of document provided to income tax department for survey, monthly and yearly returns filed to dept. of Income Tax, Service Tax and Karnataka VAT, all the financial and bank detail from, 2006 etc. of project "Paramount Pilatus of Paramount Vijetha Holdings" from the Respondent which the latter failed to provide.

**Proceedings:**

3. On 26<sup>th</sup> October, 2020, during hearing, the Committee noted that the Respondent along-with Counsel was present in person before the Committee through video conferencing. Thereafter, the Respondent gave a declaration that there was nobody present in the room except them. Further, they would neither record nor store the proceedings of the Committee in any form.

3.1 At the outset, the Committee noted that the proceedings in the matter was heard on 21<sup>st</sup> Sept, 2020, when the Counsel for the Respondent had requested it to consider the Complainant's letter dated 17/03/2020 informing about withdrawal of the Complaint against the Respondent. The Committee had considered the request of the Complainant in view of the allegations made against the Respondent and decided to proceed further in the matter. Thereafter, the matter was heard on its merit on 5<sup>th</sup> October, 2020 when the Committee had directed the Respondent to corroborate his submissions with the evidences to support the quantity of stock certified by him. It was noted that the Respondent had submitted the required documents/information. The Committee asked the Counsel for the Respondent to make submissions. The Committee examined the Counsel for the Respondent on the submissions made. Thereafter, the Counsel for the Respondent made final submissions in the matter.

3.2 Based on the documents and information available on record and after considering the oral and written submissions made by the Counsel for the Respondent/Respondent, the Committee concluded hearing in the matter.

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**Findings of the Committee:**

4. The Committee noted that the Complainant had raised two allegations against the Respondent and that second allegation charge (as mentioned in paragraph 3(ii) above) was dropped by the Director (Discipline) while forming his prima facie opinion. Accordingly, the Committee considered only the first allegation against the Respondent for further inquiry wherein it was alleged that the Respondent had certified false information relating to stock of flats as held by the firm in its certificate dated 18<sup>th</sup> March, 2016.

4.1 In this respect the Committee noted the submissions of the Respondent in which he has submitted that though the date of certificate was 18<sup>th</sup> March, 2016, he had certified the stock as existing on 18<sup>th</sup> September, 2015. It was an inadvertent mistake on his part that he missed out to mention that the said stock of 44 flats was existing as on 18<sup>th</sup> September, 2015.

4.2 It was further noted that to corroborate the information regarding the stock of flats as stated in the alleged certificate, the Respondent brought on record the following addition documents/submissions:-

- (a) Stock verification sheet as on 17/03/2016 with reference to Supplementary Agreement to Joint Development Agreement.
- (b) Details of 137 flats sold out during Financial Year 2012-2013.
- (c) Details of 18 flats sold out during Financial Year 2013-2014.
- (d) Details of 40 flats sold out with sale deed and stamp duty.
- (e) Details of 7 flats sold before 18<sup>th</sup> Sept, 2015 but sale deed entered into after 18/09/2015.

4.3 The Committee considered the above-mentioned documents and observed that stock of flats/apartments was 44 as on 18<sup>th</sup> September, 2015 as per working papers produced on record. However, due to omission of date of stock as written in the Certificate, it was misunderstood and assumed to be the stock as existing on 18<sup>th</sup> March, 2016 i.e. date of the Certificate.

4.4 Further, the Committee noticed that the Complainant never turned up after filing the complaint against the Respondent. He did not file rejoinder or additional documents as called under rule 8 (5) of of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 vide letter dated 03/11/2017 and reminder letter dated 05/12/2017. Further, he also withdrew the complaint against the Respondent vide his letter dated 17<sup>th</sup> March 2020.

4.5 In view of above, the Committee was of the opinion that although the Respondent has provided all the working papers to its satisfaction in support of certificate issued by him to the firm, but it is advisable to him that in future while performing such certification work he should be more cautious because a certification is a accuracy of facts/statements contained therein and no lapses would be considered leniently.

4.6 On the basis of above, the Committee exonerated the Respondent from charge leveled against him.

### **Conclusion**

5. Thus, in the considered 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.

### **Order:**

**5. 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. Atul Kumar Gupta  
Presiding Officer**

**Sd/-  
Smt. Anita Kapur  
Government Nominee**

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

**Sd/-**  
**CA. Chandrashekhar Vasant Chitale,**  
**Member**

**DATE: 22<sup>nd</sup> January, 2021**

**PLACE: New Delhi**