

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2020-2021)]

[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/172/16-DD/230/16-DC/742/18]

In the matter of:

**Shri S.B. Agarwal, Assistant Commissioner of Service Tax,
Audit-II, 15th Floor,
Loutus Info Centre,
Near Parel Railway Station, Parel (West),
Mumbai – 400 012**

.... Complainant

Versus

**CA. Rajneesh Suresh Chandra Jaiswal (M.No.108153),
A-206, Kemp Plaza,
Mindplace link road,
Malad (West),
Mumbai - 400 064**

..... Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
Shri Rajeev Kher, I.A.S. Retd. (Govt. Nominee)
CA. Amarjit Chopra, (Govt. Nominee)
CA. Pramod Kumar Boob, Member**

DATE OF FINAL HEARING : 09.10.2020 (through Video Conferencing)

PARTIES PRESENT :

**Complainant : Shri Prabash G. Shetty,
Superintendent (Authorized Representative)**

Respondent : CA. Rajneesh Suresh Chandra Jaiswal

Charges in Brief:-

1. In the instant matter, the broad charge against the Respondent was that he had failed to report for the appropriate disclosure of the foreign currency expenditure amounting to Rs 9.90 Crores in the financial statements of M/s Celltick Mobile Media Pvt. Ltd. (hereinafter to be referred to as the “**Company**”) for the financial year 2011-12. More specifically, it is alleged that while on the one side, Note (I) to Schedule 12 of the Balance Sheet for Financial Year 2011-12 shows that there was ‘Nil’ amount of foreign currency expenditure, on the other hand, Note No. 23 of the notes to accounts (for Financial Year 2012-13) shows an amount of Rs 9.90 Crores under the said head in previous year figure i.e., for Financial Year 2011-12.

Brief facts of the Proceedings:

3. The Committee noted that on the day of hearing i.e., on 09th of October, 2020, from the side of the Complainant, his authorized representative Mr. Prabash G. Shetty was present, while, on the other hand, the Respondent - CA. Rajneesh Suresh Chandra Jaiswal was also present to defend his case on his own. Both the parties were present through video conferencing mode and both of them gave self-declarations as to they were being alone in the rooms from where they were appearing/attending the hearing and as to they were not recording the proceedings of the Committee. The Committee discussed various aspects of the case and heard both the parties patiently.

Findings of the Committee

4. The Committee noted the Complainant's view that at one place in the schedule to the Balance Sheet for FY 11-12, the foreign exchange expenditure was disclosed, while on the other hand in the notes to accounts to the same financial statements, the Respondent reported nil amount under the said expenditure head. On the same the Respondent submitted that the amount of foreign currency expenditure shown in the schedule was just a provision created without any corresponding obligation becoming due on the Company to pay the same in

FY 2011-12 and the same actually became due in FY 2012-13 and was duly paid by it.

5. The Committee observed that though, the Complainant has filed complaint alleging non-disclosure of foreign expenditure in notes to accounts for Financial Year 2011-12, its own assessment report (produced on records by the Respondent and not contradicted by the Complainant) in the case of the said Company in question shows that there were no liability to pay service tax on such amount as the amount of taxable value of services was nil.
6. Therefore, the Committee was convinced that Complainant's department incurred no loss of revenue as far as the alleged charge is concerned. The only negligence on the part of the Respondent was that he did not ensure consistency in reporting of the same information at two places i.e., one – in the schedule to Balance Sheet & the other- in Notes to Accounts for the Financial Year 2011-12.
7. The Committee was convinced with the fact that this error on the part of the Respondent was though certainly a negligence, yet, it was not serious enough which tantamount to make it a conduct of gross negligence as there was no revenue loss to the Complainant Department. Therefore, the Committee, on considering the documents on record and submissions of the parties present before it, decided to conclude the case by exonerating the Respondent. Hence, the Committee held him not guilty of the charge alleged against him, however, for negligence on his part, it ordered to issue him a warning letter to him for being more careful in the future in relation with the professional assignments.

Conclusion

8. In terms of the reasoning discussed above and in the considered opinion of the Committee decided to exonerate the Respondent i.e. CA. Rajneesh Suresh Chandra Jaiswal from the charge alleged against him and held him **NOT GUILTY** of professional misconduct. However, a warning letter to be issued to him for the reasoning mentioned above in para 7 above.

9. 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 passed order for closure of this case against the Respondent.

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sd/-

(CA. ATUL KUMAR GUPTA)
PRESIING OFFICER

(approved and confirmed through e-mail)

(SHRI RAJEEV KHER I.A.S. RETD.)
GOVERNMENT NOMINEE

(approved and confirmed through e-mail)

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

(approved and confirmed through e-mail)

(CA. PRAMOD KUMAR BOOB)
MEMBER

DATE: 22nd January, 2021

PLACE: NEW DELHI

Certified to be true copy
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