

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/17/14-DD/53/14-DC/900/18]

In the matter of:

Shri Vivek Jetly,

6/B, Green Land Society,

Gotri Road,

Vadodara -390 021

.... **Complainant**

-Vs-

CA. Ashokkumar R Thakkar (M. No. 048169),

Partner, M/s V C A & Associates (FRNo.114414W),

Chartered Accountants,

402, Capri House,

B/h Express Hotel,Alkapuri,

Vadodara- 390 007

.... **Respondent**

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer

CA. Amarjit Chopra, (Govt. Nominee)

CA. Rajendra Kumar P, Member

DATE OF FINAL HEARING : 22.12.2020

PLACE OF FINAL HEARING : ICAI Bhawan, Delhi

PARTIES PRESENT :

Complainant : Shri Vivek Jetley
Counsel for the Complainant : Adv. Bharat Pandya
Respondent : CA. Ashokkumar R. Thakkar
Witness : CA. Vinod Kansara

Charges in Brief :

1. In the instant matter, the Complainant alleged against the Respondent that the latter as an auditor of the Company M/s Sudama Chemtek Pvt Ltd. (hereinafter referred to as "**the Company**") misled the Directors & Shareholders of the said company and did not carry out the audit as per accepted norms. The Respondent, on the other hand, was firm on his stand that nothing specific had been mentioned by the Complainant as to what are the areas of lapse on his ground and how did he mislead the directors or/ and shareholders of the said company.

Brief facts of the Proceedings:

2. The Committee noted that on the day of hearing i.e., on 22nd of December, 2020, from the side of the Complainant, he himself was present along with his Counsel- Adv. Bharat Pandya, while on the other hand, the Respondent - CA. Ashokkumar R Thakkar was also present to defend his case on his own. Besides, the Complainant & the Respondent, one witness of the Committee – CA. Vinod Kansara was also present on this day of hearing. All the parties including the Counsel of the Complainant & the witness of the Committee were present through video conferencing mode and all of them gave self-declarations as to they were being alone in the rooms from where they were appearing/attending the hearing and as that they were not recording the proceedings of the Committee.

2.1 The Committee heard the Complainant and the Respondent. The Committee also noted the written arguments of the parties and the submissions made thereunder. The witness of the Committee CA. Vinod Kansara was also heard. The Committee concluded the hearing and reserved its decision.

2.2 Thereafter this matter was placed in meeting dated 22nd January, 2021 for consideration of the facts and arriving at a decision by the Committee.

MEMBERS PRESENT ON 27.01.2021:

CA. Atul Kumar Gupta, Presiding Officer
Shri Rajeev Kher, I.A.S. Retd., Government Nominee
CA. Amarjit Chopra, Govt. Nominee
CA. Rajendra Kumar P, Member
CA. Pramod Kumar Boob, Member

FINDINGS OF THE COMMITTEE:

3. It is the submission of the Respondent that at the initial stage of the Complainant, he accepted as member answerable on behalf of the firm. The Respondent submits that he did not sign the audit report in question based on which the complaint has been filed and the Director (Discipline) has given his opinion on the same. The Committee noted that it is the witness CA. Vinod Kansara who is the signatory of the audit report.
- 3.1 The Committee during interrogating the witness, noted from the submissions of the witness that though there was one more supervisor above him named as Mr J. K . Mehta, who reviewed his audit work of the company in question but as he was deceased 3 years back and the Respondent had not performed any role in the alleged matter except to take voluntary responsibility to respond to ICAI, only accountability that could be fixed in the instant matter was that of the witness only. The Committee brought to the notice of the witness the account of the company in Vijay Bank and questioned the witness as to why he ignored the said bank account while performing the audit and how the reconciliation of the debtors and creditors balances were carried out by him as required under SA505. The witness submitted that he has no knowledge of the existence of such a bank account during the time of performance of the audit. The fact of the existence of the account with Vijay Bank was known to him only when the complaint was filed before ICAI.

- 3.3 The Committee also noted that the Respondent was repeatedly submitting that his firm was not provided with the information relating to Vijaya Bank account by the auditee company & he was not aware about it at the time of audit. Moreover, though, his firm claimed to have conducted the audit with due diligence and verified debtors-creditors' balances, yet, he could not convince the Committee as to how did he confirm the balances under these accounts without referring to Vijaya Bank in which huge amount of funds exceeding Rs 1 Crore had been credited by the parties and had also been withdrawn by the directors. The Witness also could not produce any Debtors'-Creditors' reconciliation statement even on a specific demand by the Committee. Moreover, when asked specifically by the Committee if there was any practice in routine to get the confirmation of balances of parties – both the suppliers & the customers, the witness stated that he did not remember as to what was the practice in the company in this regard.
- 3.4 The Committee has heard the Complainant, the Respondent and witness. The Respondent has accepted before the Committee that he is the member answerable but has no role to play in the conduct of the audit. On the other hand, it is the witness who has conducted and also affixed his signature on the audit report. Therefore, the Committee decided to abate the matter against the Respondent and since the answerable person who signed the financials was the witness, the Committee is of the view that Director (Discipline) may initiate a information case against the witness – CA. Vinod Kansara.

Conclusion

4. In terms of the reasoning discussed above especially para 3.4 and in the considered opinion of the Committee, the Committee decided to abate the matter against the Respondent i.e. **CA. Ashokkumar R. Thakkar (M. No. 048169)**. Furthermore, it directed to initiate a fresh information case against the witness – Mr. Vinod Kansara.
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 passed order for closing the case against the Respondent.

sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

(approved & confirmed through email)
(SHRI RAJEEV KHER, I.A.S.(RETD.))
GOVERNMENT NOMINEE

(approved & confirmed through email)
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE


sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

(approved & confirmed through email)
(CA. PRAMOD KUMAR BOOB)
MEMBER

DATE : 11TH FEBRUARY, 2021
PLACE : DELHI

Certified to be true copy


Jyoti Grover
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
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