

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – IV (2021-2022)]

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

Findings 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/158/17-DD/176/2017/DC/1130/2019]

In the matter of:

CA. Prem Kumar
D-55, First Floor
Vikas Puri
New Delhi-110018

..... Complainant

Versus

CA. Simran Singh.... (M.No. 098641)
M/s D.Singh & Co. (FRN No.00135N)
C-97, Panchsheel Enclave
New Delhi-110017

..... Respondent

MEMBERS PRESENT:

CA. Nihar N Jambusaria, Presiding Officer
Shri Arun Kumar, IAS (Retd.) Govt. Nominee
CA. G Sekar, Member

DATE OF FINAL HEARING: 27.09.2021

PARTIES PRESENT:

- i) CA. Prem Gumber: Complainant
- ii) CA. Sandeep Manaktala: Counsel for the Complainant
- iii) CA. Simran Singh: the Respondent
- iv) CA. A. P. Singh : Counsel for the Respondent

((i) and (ii) appeared in person at ICAI, New Delhi and (iii) & (iv) appeared from respective personal location through video-conferencing)





Charges in Brief:-

Background of the Case:

1. The Complainant is a partner of Respondent Firm for last more than 27 years which is presently managed by the Respondent. On the death of founder-partner, who also happened to be the father of Respondent, the constitution of Respondent firm was changed in the year 2013. The Firm was reconstituted vide partnership deed dated 19th December 2013 (**W 52-W 55**). It is noted that subsequent to the death of the Respondent's father, disputes arose between the Complainant and the Respondent as regards their partnership and the Complainant by leveling allegations of professional/other misconduct filed a complaint (Ref.no. PR/33/2015-DD/43/15) against the Respondent. The said complaint was disposed off by the Board of Discipline, while concurring with the Prima Facie Opinion dated 24th November, 2016 (**E-1 to E-20**) formed by the Director (Discipline) in terms of Rule 9(1) of the aforementioned Rules.

Thereafter, the Complainant filed present complaint dated 8th May, 2017 (**C-1 to C-32**) against the Respondent and alleged that:

1.1 The Respondent firm, despite of change in constitution of Firm in December, 2013 failed to file the duly filled/signed Form-18 with the Institute which was supposed to be filed up to 31-3-2014 and the form filed on 29-1-2014 being invalid.

1.2 The Respondent firm defrauded RBI and CAG for the purpose of empanelment for allotment of bank audits as all the partners of Respondent Firm are dummy and non-working.

1.3 The Respondent firm continued to claim CA. Anup Kumar Mukherjee, who left the firm in the year 2007 and joined a private Company in Mauritius as its "exclusively associated partner" for the purpose of empanelment/getting Public Sector audits.

1.4 The Respondent firm provided false and fabricated information to ICAI and CAG for the purpose of empanelment by omitting the name of Complainant being

by



partner in the declaration and including name of CA. Hardeep Singh Ahuja as its exclusively associated partner, who is working in a multinational Company.

1.5 The Respondent firm shared professional fee with a person who is not its partner and thereby liable for professional misconduct as it shared profit ratio of 15% with CA. Hardeep Singh Ahuja who is not its partner in terms of records of ICAI.

1.6 The Respondent firm provided a forged, fabricated and incomplete Partnership Deed dated 19-12-2013 and thereby liable for professional misconduct.

1.7 The Respondent firm failed to provide the information i.e. its financial records as called for by the Disciplinary Directorate of ICAI in case ref. PR/33/15/DD/43/2015.

1.8 The Respondent firm tried several times to remove the Complainant from the firm by adopting unethical means; marginalizing the Complainant to leave the firm; failed to pay legal dues to the Complainant and to provide financial statements of the firm and thereby brought disrespect to the profession.

2. Thereafter, the Director (Discipline) based upon the Complaint, Written Statement, Rejoinder and additional documents/submissions on record, prepared Prima Facie Opinion dated 05th August, 2019 and was of the opinion that the Respondent was **NOT Guilty** of "Professional" and or "Other Misconduct" falling within the meaning of Clauses (2),(11) of Part I, Clause (2) Part IV of First Schedule, Clauses (1),(3),(4) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 and placed said opinion before Board of Discipline for its consideration. The Board on consideration of the PFO holding the Respondent Not Guilty by Director (Discipline) was of the view that the charges alleged against the Respondent are serious in nature, therefore, decided that a detailed enquiry in the matter is required by way of affording opportunity to both the parties by way of personal hearing and refer the matter to Disciplinary Committee to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of professional and Other Misconduct and Conduct of cases) Rules 2007.



Brief facts of the Proceedings:

3. Thereafter, a meeting was held on 27/09/2021 and the Committee noted that the Complainant and the Respondent along-with their respective Counsel were present during the hearing. Thereafter, the Respondent and her Counsel 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.

Thereafter, the Committee asked the Complainant and the Respondent to make their submissions in the matter. The Complainant and the Respondent made their submissions. The Committee examined the Complainant and the Respondent based on submissions made by them.

Based on the documents available on record and after considering the oral and written submissions made by the Complainant and the Respondent before it, the Committee concluded the hearing and kept its decision reserved and directed the Complainant to file charge-wise submissions within two weeks from the date of hearing with a copy to the Respondent who was asked to file her submissions thereon within next two weeks with a copy to the Complainant.

3.1 Thereafter this matter was placed in meeting held on 28th January 2022 for consideration of the facts and arriving at a decision by the Committee. The Committee noted that as per direction dated 27th September, 2021, the Complainant and the Respondent has submitted their submissions vide letters dated 07/10/2021 and 23/10/2021 respectively.

Keeping in view the facts and circumstances of the case, material on record and submissions of the Complainant and the Respondent before it, the Committee passed its judgement.

Findings of the Committee

4. The Committee noted that subject complaint is matter of dispute amongst the partner of the firm after the death of its founder partner CA. Dhanwat Singh. Further, it is also noted by the Committee that the Complainant had joined the Respondent

firm as partner on 30/05/1990 and continued upto May, 2019 and Respondent joined said firm much later i.e. on 01/04/2001.

4.1 The Committee noted that as the Complainant was partner in the firm then he was himself responsible for the violations/ir-regularities done by the Firm. Moreover, as noted by the Committee and admitted by the Complainant, there were atleast 7-8 partners in the firm, but all they have no grievance against the working of firm/Respondent. In view of this, the Committee was of the view that by making such allegations for which the Respondent was equally responsible, he is wasting time of the Committee and thus, the Committee was not please with the conduct of the Complainant.

4.2. Further, the Complainant himself admitted before the Committee that he has not having any grievance against the Respondent and his grievance is against the procedure which have been followed by firm.

4.3 On other side, the Counsel for the Respondent submitted that in Prima Facie opinion, the Respondent was held not Guilty, but the Board of Discipline did not agreed with said opinion of Director (Discipline) and was of the view that that the charges alleged against the Respondent are serious in nature, therefore, decided that a detailed enquiry in the matter is required by way of affording opportunity to both the parties by way of personal hearing, but Board did not point out any merit/point on which the Respondent held Guilty. Thus, without any ground or merit of the case, Respondent cannot he held Guilty.

4.4 In view of above submissions of the parties, the Committee dismissed the subject case and held the Respondent not guilty of professional and other misconduct.

Conclusion

5. In view of above discussion, the Committee was of the considered opinion that the Respondent was held **NOT Guilty** of "Professional" and or "Other Misconduct" falling within the meaning of Clauses (2),(11) of Part I, Clause (2) Part IV of First

Schedule, Clauses (1),(3),(4) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Order

6. 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 an Order for closure of this case against the Respondent.

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**Sd/-
(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER**

**Sd/-
(SHRI ARUN KUMAR, I.A.S. {Retd.})
GOVERNMENT NOMINEE**

**Sd/-
(CA. G SEKAR)
MEMBER**

Date: 11/2/2022

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प्रमाणित सत्य प्रतिलिपि / Certified true copy

Suneel Kumar
सीए. सुनील कुमार / CA. Suneel Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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