

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 /266/13/DD/07/2014/DC/460/2016]

In the matter of:

Chief Manager

State Bank of Patiala

(Merged with State Bank of India)

Apollo Chowk,

Narwana Distt, Jind

Narwana-126116, Haryana

.....Complainant

Versus

CA. Manoj Kumar.....(M. No. 093061)

Prop Manoj Vishard & Associates

Canal Road,

Opp. Patram Building

Narwana

Distt. Jind

Narwana 126116, Haryana

.....Respondent

MEMBERS PRESENT:

CA. Nihar N Jambusaria, Presiding Officer

Shri Arun Kumar, IAS (Retd.) Govt. Nominee

Ms. Nita Chowdhury, IAS (Retd.) Govt. Nominee

CA. Manu Agrawal, Member

DATE OF FINAL HEARING: 07.09.2021 through Video Conferencing





PARTIES PRESENT:

Counsel for Respondent : CA. C.V. Sajan

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 of Professional Misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act 1949. The said Clause to the Schedule states as under: -

Second schedule

Part I

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

Specific Charge is as under:-

2. The Complainant alleged that two different sets of Balance Sheets for Financial Years 2011 and 2012 were submitted by the Company (Mittaso India Pvt Limited) i.e. one set to ROC and another set to Complainant Bank. While, the Financial Statements filed with the Complainant Bank were alleged to be signed by the Respondent, the Balance Sheet submitted to ROC were stated to be signed by another auditor/Chartered Accountant.

Brief facts of the Proceedings:

3. During hearing held on 07th September 2021, the Committee noted that neither the Complainant was present before it nor any request

for adjournment was received from it. In the absence of any communication from the Complainant Bank, the Committee decided to proceed in the matter. The Committee further noted that the Counsel for the Respondent was present before it for hearing. Thereafter, he gave a declaration that there was nobody except him in room from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form.

3.1 The Committee noted that since last hearing there was substantial change in constitution of the Committee hence, it was decided to hold *de-novo hearing*. Thereafter, the Committee asked the office to read out the charges against the Respondent. Thereafter, the Committee asked the Counsel for the Respondent to make submissions in the matter. The Counsel for the Respondent made his submissions. The Committee examined the Counsel for the Respondent based on submissions made by him.

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

Findings of the Committee

4. The Committee noted the submissions of the Respondent wherein he contended to have never audited the accounts of the Company or issued any kind of audit report to the Company. Further, he submitted that neither he nor his family members had any kind of interest in the Company.

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During the hearing the Counsel for Respondent submitted that appointment letter submitted by the Bank was a fabricated document as same was created through computer. Further, he questioned as to the bank had the said appointment letter as it was the Bank was not party to the said appointment. Further, the Counsel in Respondent's defence submitted that the Respondent had not only filed the complaint with the police for forging his signature, he had also sought original documents as alleged to be signed by the Respondent from the Complainant Bank for forensic examination, which was never received even after repeatedly writing to the Bank. He brought on record the copy of said letters.

5. After recording above submissions of the Counsel for the Respondent, the Committee perused the documents/papers/information available on record and observed that at the time of first hearing dated 12/07/2017, Shri Sulekh Chand Modgil, Chief Manager, Complainant bank who appeared before the Committee was specifically instructed to provide the photocopy of original documents to the Respondent, so that signature could be verified by forensic expert. However, after giving consent to provide the same, neither any person appeared on behalf of Complainant Bank before the Committee at its meetings held on 22/08/2017, 23/05/2019 as well as in the extant hearing itself nor supplied the basic required documents even after it was separately written by the office to the Complainant bank.

6. In view of such non-cooperative attitude of the Complainant and in the absence of said primary documents of the matter, the Committee

noted that there was no other option but to accept the submissions of the Respondent that he had not signed the alleged financial statements of the Company.

Conclusion

7. In view of above discussion, the Committee was of the considered opinion that the Respondent was held **NOT GUILTY** of Professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

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

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

Sd/-
(Ms. NITA CHOWDHURY)
GOVERNMENT NOMINEE

Sd/-
(SHRI ARUN KUMAR)
GOVERNMENT NOMINEE

Sd/-
(CA. MANU AGRAWAL)
MEMBER

Date: 28/01/2022

✓

प्रमाणित सत्य प्रतिलिपि / Certified true copy

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