

CONFIDENTIAL

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

**[Constituted under Section 21B of the Chartered Accountants (Amendment)
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-61/2015-DD/65/2015-DC/801/2018]

In the matter of:

**Shri Sandeep Kumar
C/o Lt. Col Darshan Singh (Retd)
H.I.G 177 Sector 71,
S.A.S Nagar, Mohali
PUNJAB -160 071**

...Complainant

Versus

**CA. Rajesh Mehru..... (M No. 090725)
M/s Rajesh Mehru & Co. (FRN 011715N)
276/II, Gurudev Nagar,
Imperial Hotel Street
Ludhiana,
PUNJAB – 141001**

...Respondent

MEMBERS PRESENT:

**CA. Nihar N Jambusaria, Presiding Officer
Ms. Nita Chowdhury, Member (Govt. Nominee)
Shri Arun Kumar, Member (Govt. Nominee)
CA. Manu Agrawal, Member**

DATE OF FINAL HEARING: 24.08.2021 through Video Conferencing

PARTIES PRESENT:

**Respondent : CA. Rajesh Mehru
Counsel for the Respondent : CA. A.P. Singh**





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 Clauses (7) & (8) of Part I and Clause (1) of Part II 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;"

"(8) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;"

Part II

"(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;"

- 1.1 Further, it was noted that the Committee on consideration of the prima facie opinion, concurred with the reasons given against the charge(s) (except in respect of para 7.6 of PFO) wherein, the Committee was of the view that Respondent was also **guilty** in respect of charge contained in para 7.6 as the Respondent had failed to disclose the accounting policies as per the requirement of Accounting Standard 1. Further, the Committee was of the view that Clause (4) of Part I of second Schedule was also applicable in extant case as the Respondent had failed to disclose his interest in the audited financial statements of the Company. Hence, the Respondent is also prima-facie **guilty** in respect of this charge. The said Clause to the Schedule state as under:-

Second schedule

Part I

"(4) expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;"

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2. Specific Charges are as under:-

2.1 It was noted that in the present matter, it was alleged against the Respondent, being the statutory auditor, had failed to quantify service tax dues pending for payment for more than six months as at the end of financial years 2010-11 and 2011-12 (C1, C6-C7) in respect of Fastway Transmissions Pvt. Ltd. (hereinafter referred to as the "Company") which was required to be under the CARO requirements, 2003. It was stated that the Respondent had failed to reconcile and quantify the

(i) Revenue figures in P&L Account with ST-3 Returns in financial year 2010-11, 2011-12 & 2012-13(C1,C8-C9) as well as

(ii)the Service Tax Payable figures in P&L Account with ST-3 Returns in financial year 2010-11, 2011-12 & 2012-13. (C1&C9)

2.2 The Complainant also alleged that the Respondent was working with the Company in capacity of an employee since 2009. As per the Complainant, the Respondent was responsible for maintaining and supervising financial accounting assignments.

Brief facts of the Proceedings:

3. During hearing held on 24th August 2021, the Committee noted that the Respondent along with his Counsel CA. A.P. Singh was present before it for hearing. It was, further, noted that the Complainant was not present even after being summoned under Section 21C of the Chartered Accountants (Amendment) Act, 1949 as per the specific directions of the Committee.

Findings of the Committee

4. The Committee noted that in the present case the detailed hearing was held on 10th August, 2021 wherein the Respondent's Counsel presented the case on technical grounds as well as on merits. Further, it was noted that during earlier hearing held on 26th July, 2021, the Counsel for the Respondent had requested the Committee to examine the Complainant in person and contended that the present complaint was anonymous.

4.1 The Committee, accordingly, directed the Complainant to appear before it at the next hearing so that the Complainant might examine him. It was noted that vide notice dated 27th July, 2021 as well as e-mail dated 28th July, 2021 the Complainant was directed to appear in person before the Committee on 10th Aug, 2021. However,

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the Complainant vide e-mail dated 31st July, 2021 remained silent on his attendance/appearance but submit that if the Committee had any specific question to ask or wanted any clarification from him, then same could be sought through e-mails. Thereafter, the Complainant vide another email dated 3rd August, 2021 requested the Committee to adjourn the matter stating that he had an urgent work and as such he would not be able to handle the scheduled meeting.

4.2 The Committee, during hearing on 10th Aug, 2021, while considering the matter on merits also considered email received from the Complainant and in view of the Respondent's contention that the Complaint in the matter is anonymous, the Complainant was directed to be present before it at its next hearing scheduled on Aug 24, 2021 either in person or through video-conferencing and that further to establish his identity, he was also asked to submit scanned copy of self-attested copies of his Adhar Card as well as Pan card in advance.

4.3 During hearing held on 24th August, the Committee noted that as per its directions, the Secretariat vide e-mails dated 13/08/2021, 17-08-2021 and 18-08-2021 had asked the Complainant to submit copy of his Aadhar card and Pan card alongwith appearing before the Committee on the said meeting i.e. 24th Aug, 2021 for establishing his identity but vide e-mails dated 20th, 21st and 23rd August, 2021 the Respondent questioned the authority of the Committee to call for the said documents and that he neither provided the documents called for nor appeared before the Committee. It was noted that in his replies to the Committee, the Complainant refused to appear by making lame excuses of his safety and security threat. Accordingly, it was viewed that the Complainant willfully disobeyed its summon notice for appearance before it and thus failed to establish his identity as the Complainant who filed the extant complaint. In the light of prevailing circumstances, the Committee viewed that there was no meaning to proceed in the extant matter when the Complainant neither accepted its authority nor had faith in Disciplinary mechanism of the ICAI.

5. Accordingly, the Committee decided that in view of the fact that the Complainant had failed to establish his identity before the Committee despite sufficient opportunity be given to him, the Complaint in the matter be dismissed.

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Conclusion

6. In view of above, the Committee without considering merits of the case and in terms of the reasoning discussed in above para 4.3 above was of the considered opinion that the extant complaint against the Respondent i.e. CA. Rajesh Mehru (M No. 090725) be dismissed.

Order

7. Thus, present complaint be dismissed.

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

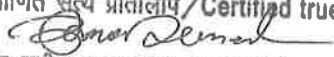
Sd/-
(SHRI ARUN KUMAR)
GOVERNMENT NOMINEE

Sd/-
(MS. NITA CHOWDHURY)
GOVERNMENT NOMINEE
[Approved through e-mail dated 06/09/2021]

Sd/-
(CA. MANU AGRAWAL)
MEMBER

Dated: 13/12/2021

प्रमाणित सत्य प्रतिलिपि / Certified true copy


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