

CONFIDENTIAL

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

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

Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No. : [PPR/403/16-DD/10/INF/18-DC/1230/19]

In the matter of:

CA. YUVRAJ SINGH H. RATHORE (M.No.126873)

M/s M N N Y & Associates

B 606, Westernedge II, Next to Metro Mall

W E Express Highway, Borivali (E),

MUMBAI – 400066

.....Respondent

MEMBERS PRESENT:

CA. (Dr.) Debashis Mitra, Presiding Officer (Present in person)

Shri Rajeev Kher, Government Nominee (Through VC)

CA. Amarjit Chopra, Government Nominee (Through VC)

CA. Babu Abraham Kallivayalil, Member (Through VC)

CA. Rajendra Kumar P, Member (Through VC)

DATE OF FINAL HEARING : 19th January, 2022 (Through Video Conferencing)

PARTIES PRESENT

Respondent : CA. Yuvrajsingh H. Rathore

Counsel for Respondent : Mr. Hakani, Advocate

CHARGES IN BRIEF:-

1. The Committee noted that the charge against the Respondent is that he had signed two Balance Sheets in respect of M/s AB & Co. Global Pvt Ltd (hereinafter referred as "Company") for financial year ending 31st

March,2011. The Balance Sheet which was having unsecured term loan of Rs. 1.95 crore was submitted by the Company to the Informant Bank and the financial statements where unsecured term loan was not mentioned were uploaded on MCA website.

2. The Committee noted that the Respondent was held Prima-facie Not Guilty by Director (Discipline) in his prima facie opinion, however, the Board of discipline while considering the prima-facie opinion did not concur with the prima facie opinion of the Director(Discipline) that the Respondent is Not Guilty of Professional Misconduct falling within the meaning of Clauses (5) & (7) of Part I of the Second Schedule to the Chartered Accountants Act,1949 and decided to refer the matter to Disciplinary Committee under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules,2007. The Board was of the view that the Respondent failed to ensure that the audit report earlier issued him was properly withdrawn. The Board also viewed that question as to how the old report was given to Bank can be examined only by hearing the Respondent.

BRIEF FACTS OF THE PROCEEDINGS:

3. The Committee noted that the Respondent alongwith his Counsel Mr. Hakani, Advocate were present through Video Conferencing mode. Thereafter, the Counsel of the Respondent argued on the merits of the case and presented his line of defense, whereby, among others, he pleaded that Informant Bank had not submitted copy of original Financial Statement. He further submitted that he had destroyed earlier signed copy of Balance Sheet.
- 3.1 The Committee after hearing the Respondent/ his Counsel decided to conclude the hearing by reserving it judgement with direction to the Respondent to submit affidavit stating that original Balance Sheet was destroyed in his presence.



3.2 Thereafter this matter was placed in meeting dated 31st January 2022 for consideration of the facts and arriving at a decision by the Committee.

MEMBERS PRESENT ON 31.1.2022:

CA. (Dr.) Debashis Mitra, Presiding Officer (Through VC)

Sh. Rajeev Kher, I.A.S. (Retd.), Government Nominee (Through VC)

CA. Babu Abraham Kallivayalil, Member (Through VC)

CA. Rajendra Kumar P, Member (Present in person)

FINDINGS OF THE COMMITTEE

4. The Committee noted that it is an admitted fact that the Respondent had earlier signed one set of Balance sheet which was reflecting amount of Rs.1.95 crores as unsecured loan. The Committee also noted that the Respondent later on found some revision in Balance Sheet and since the financials were not circulated to the shareholders of the Company, he demanded the originals and destroyed the same.
5. The Committee also note that the Respondent had brought on record management representation letter dated 20th August, 2011 (**page B-14 to B-16 of prima-facie opinion**) representing that the original balance sheets signed by him had not been used yet and will be returned to him. The Respondent submitted that these were also returned to him and later on were destroyed by him.
6. The Committee noted that as per its directions in meeting held on 19th January 2022, the Respondent had submitted an Affidavit wherein, he deposed that the Balance Sheet and the Auditor's report earlier signed by him were destroyed by him in his office in the presence of Mr. Sunil Aggarwal, Director of the Company, and his peon. He further deposed that Mr. Sunil Aggarwal and his peon confirmed that they do not have retained copy of destroyed Balance Sheet and Auditor's report. The Committee also noted that

it is an admitted fact that the second Balance Sheet was signed by the Respondent on same day.

7. The Committee noted that copy of first set was demanded by the Respondent at various stages and was not made available by the Informant Bank. The Committee noted that the Director (Discipline) vide letter dated 1st June, 2018 specifically called the copy of both sets from Informant Bank, however the same were not made available by the Informant Bank.
8. The Committee further observed that limits were renewed each and every year till 2014-15 and in case the bank contends that they had enhanced the credit facilities several times and holds the Balance sheet for financial year 2010-11 to be the base for such renewal, cannot be accepted.
9. The Committee hence observed that as per series of advancement of loan by Informant Bank, it is noted that the Company was enjoying limit from Bank till February,2015. The allegation against the Respondent w.r.t financial year 2010-11 were made only after the account turned NPA. The Informant Bank started communicating with the Company on financial statements for the year 2010-11 only in year 2015 which shows failure in exercising due diligence on their part. The Informant bank could have immediately checked on MCA portal about correct figures of financial statements.
10. The Committee accordingly extended benefit in favour of the Respondent and holds him Not Guilty.

CONCLUSION

11. In view of the above findings stated in above paras the Committee in its considered opinion hold the Respondent is **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (5) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

12. The Committee, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, passed order for closure of this case against the Respondent.

sd/-

(CA. (DR.) DEBASHIS MITRA)
PRESIDING OFFICER

sd/-

(SH. RAJEEV KHER, I.A.S. (Retd.))
GOVERNMENT NOMINEE

sd/-

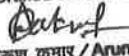
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

DATE: 11TH FEBRUARY, 2022
PLACE: NEW DELHI

सही प्रतिरूपि होने के लिए प्रमाणित /
Certified to be true copy


अरुण कुमार / Arun Kumar
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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