



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

**In the matter of:**

**Shri Rakesh Dhawan, New Delhi**

**-vs-**

**CA. Lokesh Dhawan (M.No.081041) New Delhi**

**[PR- 248/14-DD/259/2014/DC/662/17]**

**AND**

**[PR/ 233/14/DD/239/2014/DC/663/17]**

**Date of Order : 13<sup>th</sup> December, 2021**

**MEMBERS PRESENT:**

**CA. Nihar N Jambusaria, Presiding Officer**  
**Shri Arun Kumar, Member [Govt. Nominee]**  
**CA. G Sekar, [Member]**  
**CA. Manu Agrawal, [Member]**

1. That vide reports dated 03<sup>rd</sup> February, 2020 in above cases reference no. **[PR/248/14/DD/259/2014/DC/662/17]AND[PR/233/14/DD/239/2014/DC/663/17]**, the Disciplinary Committee held **CA. Lokesh Dhawan (M.No.081041), New Delhi** (hereinafter referred to as the "Respondent")

**GUILTY** of professional Misconduct falling within the meaning of Clause (11)



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of Part I of First Schedule to the Chartered Accountants Act, 1949 as amended from time to time.

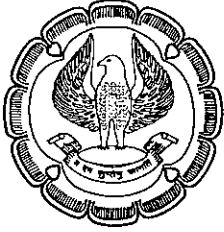
2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 13<sup>th</sup> December, 2021.

3. The Respondent did not appear before the Committee on 13<sup>th</sup> December, 2021 nor any intimation was received from him even though the notice of hearing was duly served upon him vide e-mail and registered post of dated 30<sup>th</sup> November, 2021.

4. The Committee considered the facts of the case and various documents/submissions on record with the findings of the earlier Committee holding the Respondent guilty of professional misconduct in these both cases.

5. On perusal of the screenshot of website of M/s. Krishna Group, it is noted that the Respondent's designation in the group had been termed as the executive Director (Finance, IT and Secretarial). As per the Complainant, the photo of the Respondent was removed subsequent to the filing of the complaint.

5.1 The Committee also noted that the Respondent in application for visa to U. K., has mentioned that he was employed as an Executive Director



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(Finance) in the Company (Krishna Maruti Ltd.) and the same was confirmed from the letter of UK Board Agency.

5.2 The Committee also perused the copy of saving account statement of the Respondent for the months of March, 2012, May, 2012, June, 2012, August to December, 2012, March to June, 2013 [as available in other disciplinary case filed against the Respondent [Ref. no.PR-233/14-DD-239/14/DC/663/2017]] and noted that there was a credit every month in the account with the narration salary.

5.3 It is also noted that the Complainant also provided copy of salary slip for the month of October, 2012 wherein employee Id of the Respondent was mentioned and the amount of net salary was matched with the amount credited in the bank account of the Respondent.

5.4 Apart from above, from the intimation under Section 143(1) of the Income Tax Act, 1961 for the Assessment Year 2012-13, it is observed that the Respondent had declared income under the head of salary.

5.5 From the aforesaid facts, it was clear that the Respondent was working as an employee of the Company on full time basis while holding full time COP till 2015.

5.6 Hence, the Committee was of the view that the Respondent deliberately hides the fact of his full-time employment with the Company while holding full time COP.

5.7 Accordingly, ends of justice can be met if reasonable punishment is given to him in commensurate his above professional misconduct.

**6. Thus, keeping in view the facts and circumstances of the case as aforesaid, the material on record, submissions of the Respondent**



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before it, this Committee orders that the name of the Respondent i.e. CA. Lokesh Dhawan (M. No. 081041) be removed from register of members for a period of 02 (Two) months and a fine of Rs. 1,00,000/- (Rupees One lakh Only) be levied on him that shall be payable within a period of 3 months from the date of receipt of the Order and in case he failed to pay the same as stipulated, the name of the Respondent, be removed for addition period of 01(One) month.

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

**Sd/-**  
**(SHRI ARUN KUMAR)**  
**GOVERNMENT NOMINEE**


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

**Sd/-**  
**(CA. MANU AGARWAL)**  
**MEMBER**

**Date: 28/1/2022**

93/

प्रमाणित सत्य प्रतिलिपि / Certified true copy

  
सी.ए. सुनील कुमार / CA. Sunee Kumar  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]**

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

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

**Ref. No. PR- 248/14-DD/259/2014/DC/662/17**

**In the matter of:**

**Shri Rakesh Dhawan,  
218, Kailash Hills,  
New Delhi – 110 065**

**.....Complainant**

**Versus**

**CA. Lokesh Dhawan (M.No.081041)  
M/s. LD & Associates,  
218 Kailash Hills,  
New Delhi – 110 065**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Prafulla Preme Sukh Chhajed, Presiding Officer,  
Shri Jugal Kishore Mohapatra, I.A.S.(Retd.), Government Nominee,  
Ms. Rashmi Verma, I.A.S. (Retd.), Government Nominee,  
CA. Babu Abraham Kallivayalil, Member,  
CA. Dayaniwas Sharma, Member**

**DATE OF FINAL HEARING : 16.10.2019 (Decision taken on 17.12.2019)**

**PLACE OF FINAL HEARING : ICAI, New Delhi**

**PARTIES PRESENT:**

**Counsel for the Respondent : Shri Vivek Sharma**

**BRIEF OF THE DISCIPLINARY PROCEEDINGS:-**

1. The Committee noted that first hearing in the above matter was fixed on 28<sup>th</sup> August, 2019. The notice of the said hearing was duly sent to the Complainant and the Respondent. However, the said hearing was adjourned at the request of the Respondent.

1.1 On the day of next hearing held on 16<sup>th</sup> October, 2019, the Committee noted that the Complainant was not present. The Respondent was not present but his Counsel was present. The Committee noted that notice of hearing was duly sent to the Complainant and the Respondent. Since there was no prior intimation from the Complainant regarding his absence and there was no request for adjournment of hearing, the Committee decided to proceed ahead with the matter ex-parte the Complainant. Since the Counsel for the Respondent was not having any authorization letter from the Respondent, the Committee directed the Counsel for the Respondent to file the same. The Counsel for the Respondent stated that he would file the same. On the same, the Committee directed the Counsel for the Respondent to file the same within 3 days of hearing. Thereafter, on being enquired from the Counsel for the Respondent as to whether he is aware of the charges leveled against the Respondent, he replied in affirmative and opted to defend his case. With the consent of the Counsel for the Respondent, the Committee decided to continue further in the matter. Thereafter, the Counsel for the Respondent made his submissions. The Committee raised questions to the Counsel for the Respondent. After hearing the final submissions, the Committee directed the Counsel for the Respondent that if he wants to submit any submissions, he may file the same within 10 days of the hearing. With this, the Committee decided to conclude the hearing in the matter.

2. In respect of above directions, the Committee observed that in spite of directions to the Counsel for the Respondent to file authorization letter / Vakalatnama, he did not file the same. Further, the Respondent chose not to submit his further submission in the matter. Since the Counsel for the Respondent did not submit authorization letter / Vakalatnama, the Committee decided not to give weightage to his submissions.

**CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-**

3. As regard the brief background of the matter, the Committee noted that the Respondent was a partner and a full time practicing CA in the firm, M/s. LD & Associates (hereinafter referred to as the "Respondent Firm"). He was holding a full time Certificate of Practice. It was alleged that the partners of the Respondent firm were engaged in full time employment despite holding full time COP and this fact has not been informed to the Institute. The employment details of the partners were as follows:

- a. Mr. Lokesh Dhawan (the Respondent) is employed as Executive Director (Finance, IT & Secretarial) Interiors Division of Krishna Maruti Ltd. The Complainant provided the Salary Slips of CA. Lokesh Dhawan along with Bank Statements.
- b. Mrs. Neelam Dhawan is employed as full time director in Hot Biz Systems Pvt. Ltd and her DIN number is 01201946.
- c. Mr. Harihar Sahu is employed as full time employee in Krishna Maruti Limited in the Finance Department.

3.1 In view of above background, the Committee noted that the Respondent was held prima facie guilty in respect of the following charges:-

- i) In first charge, it was alleged that the information with regards to the employment of the partners was not informed to the Institute and they all continue to hold full time Certificate of Practice. In spite of being full time employee with Krishna Maruti Ltd and drawing a regular salary, Mr. Harihar Sahu and the Respondent continue to canvass for audit business for the Respondent firm and after securing this business, get the Audit done from people who are neither partners nor employees of the Respondent firm.
- ii) The Respondent claims to have an office at 218, Kailash Hills, New Delhi – 110 065 whereas there is no office of the Respondent firm at this address. Not even a single employee is working full time for the Respondent firm and they still manage to secure big audits like State Bank of India. There is only an office of Hot Biz Systems Pvt. Ltd at 218, Kailash Hills, which is the office of Mrs. Neelam Dhawan's software company and this office is being shown as the office of the Respondent.

iii) LD & Associates, the partnership company of the Respondent is also auditing the following companies of the Krishna Group which are companies in which the Respondent & Mr. Harihar Sahu are directly employed.

- i) Krishna Maruti Limited (Of which the Respondent is an employee)
- ii) Krishna Quinette Seats Pvt. Ltd. (Group Company of Krishna Maruti Ltd.)
- ii) Krishna Grupo Antolin Private Limited (Group Company of Krishna Maruti Ltd.)
- iv) Krishna Interior Private Limited (Group Company of Krishna Maruti Ltd.)
- v) Kapur Estates Private Limited (Group Company of Krishna Maruti Ltd.)
- vi) SKH Metals (Group Company of Krishna Maruti Ltd.)
- vii) SKH Auto Components (Group Company of Krishna Maruti Ltd.)
- viii) SKH Auto Trims Private Limited (Group Company of Krishna Maruti Ltd.)
- ix) SKH Global Travels (Group Company of Krishna Maruti Ltd.)
- x) Krishna Toyo Ltd. (Group Company of Krishna Maruti Ltd.)

Other than the above companies, LD & Associates is also doing audit work for the following companies

- State Bank of India
- Maruti Centre of Excellence
- The Energy and resources Institute
- Connectvt Infoserv Private Limited

These audits were being done by the Respondent firm despite the fact that the Respondent & Mr. Harihar Sahu were employed full time with Krishna Group and Mrs. Neelam Dhawan was working full time in Hot Biz Systems Pvt. Ltd. and consequently cannot devote any time to audit work at all. The audits were being performed by individuals who are neither partners nor employees of the Respondent firm.

4. The Committee noted that the Respondent through his written submissions made the following submissions in his defence:-

4.1 The Respondent firm closed down on 30.04.2016 and it is not in existence today and the proceedings against the Respondent should be abated. The Committee noted that the Respondent did not make specific submission in the instant matter. However, the Respondent in other disciplinary matter filed against him in his individual capacity (bearing ref no. PR-233/14-DD-239/14-DC/663/2017) stated as under:-



4.1.1 He has earlier filed a detailed Written Statement dated 12.09.2014 wherein he brought into focus that the Complainant and the Respondent are real brothers and that the present complaint is actuated by an ongoing property dispute between the parties with regard to ancestral property.

4.1.2 The Respondent stated that his present submissions should be read in conjunction with his earlier written statement filed at prima facie stage.

4.1.3 The Respondent stated that his membership of the Institute fell due on 01.04.2014 and no steps having been taken by him to seek and obtain renewal of the same. The membership in question must be deemed to have lapsed thereafter. If that be so, the Institute has no power authority or jurisdiction to proceed further in the matter as he is no longer a member of the Institute as on date.

4.1.4. In respect of charge related to being in employment with Krishna Maruti Ltd., the Respondent stated that the said charge pertains to being in employment of Krishna Maruti Limited as a Director w.e.f. 01.09.2015, while holding full time Certificate of Practice from the Institute. The Respondent stated that the present complaint was filed on 12.09.2014. His directorship with Krishna Maruti Ltd commenced w.e.f. 01.09.2015 and the same being a subsequent event cannot be the basis of deciding the charge in the present complaint. He stated that there is no bar as such to holding to a position as that of a Director in a company by a member of the Institute and such position can be held upon permission being taken from the Institute. The Respondent stated that he was required to take permission from the Institute which was inadvertently overlooked and for such a minor lapses, he cannot be held guilty of professional misconduct. He stated that the true and correct position is that he was earlier providing consultancy services to the Company (Krishna Maruti Ltd.) and became a director in the Company only on 01.09.2015 which is a subsequent event to the filing of the present complaint as well as the earlier written statement.

4.1.5 In respect of next charge related to providing wrong information to the Institute, the Respondent stated that the prima facie opinion does not reveal which information, statement, return or form submitted by the Respondent to the Institute contains particulars which are false and which the Respondent knows to be false.

4.1.6 The Respondent denied the charge that his firm has audited the accounts of the Company and other concerns related to the Company, while the Respondent was an employee of the said Company.

5. After taking into the submissions and facts on record, the Committee gives its findings as under:-

6. In respect of charge of being in employment along with holding full time COP, it is noted that the crux of the defence of the Respondent was that he was earlier providing consultancy services to the Company and he became the director in the Company on 01.09.2015 which is an event subsequent to the filing of the present complaint. In this regard, the Committee noted that the Respondent was holding COP from 2<sup>nd</sup> August, 1979 and it was cancelled w.e.f. 1<sup>st</sup> October, 2015. As per document provided by the Complainant from the MCA website, the Respondent was appointed as director of Krishna Maruti Ltd on 01.09.2015. Hence, it can be stated that since the Respondent was not holding COP on the date of his appointment as director, he was not required to seek specific permission of the Council.

6.1 However, on perusal of the screenshot of website of Krishna Group, it is noted that the Respondent's designation in the group had been termed as the executive Director (Finance, IT and Secretarial). As per the Complainant, the photo of the Respondent was removed subsequent to the filing of the complaint. The Committee also noted that the Respondent in application for visa to U. K., mentioned that he is employed as an Executive Director (Finance) in the Company (Krishna Maruti Ltd.) and the same was confirmed from the letter of UK Board Agency. The Committee also perused the copy of saving account statement of the Respondent for the month of August, 2012, November, 2012 and also for the month of March, 2012, May, 2012, June, 2012, August to December, 2012, March to June, 2013 [as available in other disciplinary case filed against the Respondent (Ref. no.PR-233/14-DD-239/14-DC/663/2017)] and noted that there was a credit every month in the account with the narration salary. It is also noted that the Complainant also provided copy of salary slip for the month of October, 2012 wherein employee Id of the Respondent was mentioned and the amount of net salary was matched with the amount credited in the bank account of the Respondent.

6.2 Apart from above, from the intimation under Section 143(1) of the Income Tax Act, 1961 for the Assessment Year 2012-13, it is observed that the Respondent had declared income under the head of salary. From the aforesaid facts, it was clear that the Respondent was working as employee of the Company on full time basis. Since the Respondent was also holding full time COP till 2015 and there was no satisfactory submission from the Respondent as to why he had not sought prior permission of the Council before being engaged in employment, the Committee decided to hold the Respondent **Guilty** with respect to above charge.

7. As regards the charge of conducting the audit of the Companies/ group Companies wherein the partners of the Respondent firm were employed, upon perusal of the submissions and documents on record, it is noted that the Respondent, a partner in the Respondent firm was drawing salary income from M/s Krishna Maruti Ltd and other partner was acting as active director in Hot Biz System Private Ltd.

7.1 On perusal of the documents on record, the Committee noted that the Complainant had only provided copy of Form 26AS of the Respondent firm. There was no other documentary evidence to show that the Respondent firm has done the audit of Krishna Maruti Ltd. However, on perusal of the record of the disciplinary case of other partners of the firm filed by the Complainant on similar grounds, it is noted that the Complainant provided the copy of bill of the Respondent firm as regard the tax audit of Krishna Grupo Antolin (P) Ltd. done by the Respondent firm. But, from the documents downloaded from MCA website, it is noted that neither the Respondent nor any partner of the Respondent firm was director of Krishna Grupo Antolin (P) Ltd. Further, there was nothing on record to show that either the Respondent or other partners of the Respondent firm were having substantial interest in the group companies as claimed by the Complainant.

7.2 It is also observed that one of the partners of the firm, CA. Raj Kumar Sawhney has signed audit report of SKH Cabs Manufacturing Pvt Ltd for the year ending 31st March, 2013 and Form 23B was filed by CA. Raj Kumar Sawhney on behalf of the Respondent firm. As per the Complainant, SKH Cabs Manufacturing Pvt. Ltd is a Group Company of Krishna Maruti Limited. The allegation of the Complainant was that by undertaking the audit of M/s ~~SKH~~ Cabs Manufacturing Pvt Ltd., the Respondent firm has undertaken the audit work of the

Group Company of M/s Krishna Maruti Limited in which partners of the firms (including the Respondent in the instant matter) were alleged to be working as employee or director. It is also seen that Mr. Ashok Kapur and Mr. Sunandan Kapur were directors in both the Companies i.e. M/s Krishna Maruti Limited as well as M/s SKH Cabs Manufacturing Pvt. Ltd whose audit report has been signed by CA. Raj Kumar Sawhney.

7.3 However, it is observed that there was nothing on record to show that the Company, SKH Cabs Manufacturing Pvt Ltd was either holding or subsidiary companies of Krishna Maruti Limited or to show as to how both the companies were connected to each other. Further, on perusal of financial statement of Krishna Maruti Ltd for the financial years 2011-12 and 2013-14 downloaded from MCA website, it is further noted that SKH Cabs Manufacturing Pvt. Ltd was neither shown either as subsidiary nor holding companies or as related party of Krishna Maruti Ltd. In absence of any relationship between these two companies, it cannot be stated that Krishna Maruti Ltd was having any substantial interest in SKH Cabs Manufacturing Ltd of which audit was conducted by Mr. Raj Kumar Sawhney, the other partner of the Respondent firm. Further, in case of other group companies i.e. Krishna Group Antolin Private Limited and Krishna Quinette Seats Pvt Ltd, it is noted that auditor of these companies for the year 2011 and 2012 were not the Respondent firm. Hence, the charge that the Respondent firm was auditor of the companies in which the partners of the firm were having substantial interest does not stand at all.

7.4 Also, the Committee on perusal of Form 26AS (TDS statement) of the Respondent firm noted that the name of M/s Krishna Maruti Ltd. was appearing therein with the name of some other Companies which indicates that the Respondent firm has rendered professional services to Krishna Maruti Ltd. However, it is noted that the Respondent firm was not auditor of M/s. Krishna Maruti Ltd, Krishna Quinette Seats Pvt Ltd and Krishna Groupo Antolin Pvt Ltd. In view of above facts, the Committee decided to hold the Respondent **Not Guilty** with respect to charge related to audit of group companies.

8. In respect of charge that the Respondent firm was having same address as that of the Company, Hot Biz System Pvt Ltd, there is no provision in the Chartered Accountants Act, 1949 which prohibits sharing of infrastructure with other person / entity. Accordingly, the Committee decided to hold the Respondent not guilty with respect to above charge. ✓

9. As regard the charge that audit was performed by individuals who are neither partners nor employees of the Respondent firm, it is noted that as per clause (2) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member of the Institute would be held guilty of professional misconduct if he "certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice;". There is nothing on record which shows that audit was performed by the person who were not Chartered Accountants or the fees received from the clients was shared with non-chartered accountants. Further, there is no bar if the examination of financial statement is made by a Chartered Accountant in practice who is neither partner or in employment of the firm. Accordingly, the Committee decided to hold the Respondent **Not Guilty** with respect to this charge.

**Conclusion**

10. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949 in respect of charge being in employment / other engagement besides holding full time COP.

10.1 In respect of other charges related to the audit of group companies of Krishna Maruti Ltd, the audit being performed by the persons who were neither partners nor employees of the Respondent firm and the charge of having same address as that of the Company, the Respondent is **Not Guilty** of professional misconduct falling within the meaning of Clause (4) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-  
(CA. PRAFULLA PREMSUKH CHHAJED)  
PRESIDING OFFICER

Sd/-  
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))  
GOVERNMENT NOMINEE

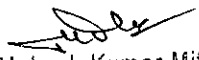
Sd/-  
(MS. RASHMI VERMA, I.A.S. (Retd.))  
GOVERNMENT NOMINEE

Sd/-  
(CA. BABU ABRAHAM KALLIVAYALIL)  
MEMBER

Sd/-  
(CA. DAYANIWAS SHARMA)  
MEMBER

DATE : 03<sup>rd</sup> February, 2020  
PLACE : NEW DELHI

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Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate

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CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]

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

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

Ref. No. PR- 233/14-DD/239/2014/DC/663/17

In the matter of:

Shri Rakesh Dhawan,  
218, Kailash Hills,  
New Delhi – 110 065

.....Complainant

Versus

CA. Lokesh Dhawan (M.No.081041)  
M/s. LD & Associates,  
218 Kailash Hills,  
New Delhi – 110 065

.....Respondent

MEMBERS PRESENT:

CA. Prafulla Premasukh Chhajed, Presiding Officer,  
Shri Jugal Kishore Mohapatra, I.A.S.(Retd.), Government Nominee,  
Ms. Rashmi Verma, I.A.S. (Retd.), Government Nominee,  
CA. Babu Abraham Kallivayalil, Member,  
CA. Dayaniwas Sharma, Member

DATE OF FINAL HEARING : 16.10.2019 (Decision taken on 17.12.2019)

PLACE OF FINAL HEARING : ICAI, New Delhi

PARTIES PRESENT:

Counsel for the Respondent : Shri Vivek Sharma

*Rd*

*✓*

**BRIEF OF THE DISCIPLINARY PROCEEDINGS:-**

1. The Committee noted that first hearing in the above matter was fixed on 28<sup>th</sup> August, 2019. The notice of the said hearing was duly sent to the Complainant and the Respondent. However, the said hearing was adjourned at the request of the Respondent.

1.1 On the day of next hearing held on 16<sup>th</sup> October, 2019, the Committee noted that the Complainant was not present. The Respondent was not present but his Counsel was present. The Committee noted that notice of hearing was duly sent to the Complainant and the Respondent. Since there was no prior intimation from the Complainant regarding his absence and there was no request for adjournment of hearing, the Committee decided to proceed ahead with the matter ex-parte the Complainant. Since the Counsel for the Respondent was not having any authorization letter from the Respondent, the Committee directed the Counsel for the Respondent to file the same. The Counsel for the Respondent stated that he would file the same. On the same, the Committee directed the Counsel for the Respondent to file the same within 3 days of hearing. Thereafter, on being enquired from the Counsel for the Respondent as to whether he is aware of the charges leveled against the Respondent, he replied in affirmative and opted to defend his case. With the consent of the Counsel for the Respondent, the Committee decided to continue further in the matter. Thereafter, the Counsel for the Respondent made his submissions. The Committee raised questions to the Counsel for the Respondent. After hearing the final submissions, the Committee directed the Counsel for the Respondent that if he wants to submit any submissions, he may file the same within 10 days of the hearing. With this, the Committee decided to conclude the hearing in the matter.

2. In respect of above directions, the Committee observed that in spite of directions to the Counsel for the Respondent to file authorization letter, he did not file the same. Further, the Respondent chose not to submit his further submission in the matter. Since the Counsel for the Respondent did not submit authorization letter / Vakalatnama, the Committee decided not to give weightage to the submissions of the Counsel for the Respondent.

**CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-**

3. As regard the brief background of the matter, the Committee noted that the Respondent was a partner and a full time practicing CA in the firm, M/s. LD & Associates (hereinafter

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referred to as the "Respondent Firm"). He was holding a full time Certificate of Practice. It was alleged that the partners of the Respondent firm were engaged in full time employment despite holding full time COP and this fact has not been informed to the Institute. The employment details of the partners were as follows:

- a. Mr. Lokesh Dhawan is employed as Executive Director (Finance, IT & Secretarial) Interiors Division of Krishna Maruti Ltd. The Complainant attached the Salary Slips of CA. Lokesh Dhawan along with Bank Statements for the respective months.
- b. Mrs. Neelam Dhawan is employed as full time director in Hot Biz Systems Pvt. Ltd. and her DIN number is 01201946.
- c. Mr. Harihar Sahu is employed as full time employee in Krishna Maruti Limited in the Finance Department.

3.1 In view of above background, the Committee noted that the Respondent was held prima facie guilty in respect of the following charges:-

- i) In first charge, it was alleged that the Respondent has a history of violations and has earlier also pleaded guilty before the Hon. High Court of Delhi, for which his name was ordered to be removed from the list of members for a period of three months. The matter was reported in detail in The Chartered Accountant, Vol. 58/ No.8/ Fe /Query 2010, Page 1230. Despite this fact, the Respondent wrongly claimed that his name has never been removed from the Register of Members.
- ii) As per the Member Card of the ICAI dated 28.03.2013, the Respondent is a practicing CA in the Respondent firm and is not employed anywhere. But, besides holding Certificate of Practice, the Respondent was working as an executive Director (Finance, IT and Secretarial) Interiors Divisions, of Krishna Maruti Ltd (hereinafter referred to as the "Company") and employed on a full time basis for the last more than 5 years. The Respondent's employee code is 10786. The salary, approx. Rs.1,30,000/- per month received by the Respondent was credited to his Bank A/c No.2211176871 with Kotak Mahindra Bank.



iii) LD & Associates, the partnership company of the Respondent is also Auditing, the following companies of the Krishna Group which are companies in which the Respondent & Mr. Harihar Sahu are directly employed.

- i) Krishna Maruti Limited (Of which the Respondent is an employee)
- ii) Krishna Quinette Seats Pvt. Ltd. (Group Company of Krishna Maruti Ltd.)
- ii) Krishna Grupo Antolin Private Limited (Group Company of Krishna Maruti Ltd.)
- iv) Krishna interior Private Limited (Group Company of Krishna Maruti Ltd.)
- v) Kapur Estates Private Limited (Group Company of Krishna Maruti Ltd.)
- vi) SKH Metals (Group Company of Krishna Maruti Ltd.)
- vii) SKH Auto Components (Group Company of Krishna Maruti Ltd.)
- viii) SKH Auto Trims Private Limited (Group Company of Krishna Maruti Ltd.)
- ix) SKH Global Travels (Group Company of Krishna Maruti Ltd.)
- x) Krishna Toyo Ltd. (Group Company of Krishna Maruti Ltd.)

Other than the above companies, LD & Associates is also doing Audit work for the following companies

- State Bank of India
- Maruti Centre of Excellence
- The Energy and resources Institute
- Connectvt Infoserv Private Limited

These audits were being done by the Respondent firm despite the fact that the Respondent & Mr. Harihar Sahu were employed full time with Krishna Group and Mrs. Neelam Dhawan was working full time in Hot Biz Systems Pvt. Ltd. and consequently cannot devote any time to audit work at all. The audits were being performed by individuals who are neither partners nor employees of the Respondent firm.

4. The Committee noted that the Respondent through his written submissions made the following submissions in his defence:-

4.1 In respect of first charge related to the claim made by the Respondent that his name has never been removed from the register of members, the Respondent stated that it is not disclosed in the prima facie opinion or the complaint as to where and before which forum or in which communication, the Respondent made such claim. The fact is that he has never made such claim and the charge is itself is false.

4.2 In respect of next charge related to being in employment with Krishna Maruti Ltd., the Respondent stated that the said charge pertains to being in employment of Krishna Maruti Limited as a Director w.e.f. 01.09.2015, while holding full time Certificate of Practice from the Institute. The Respondent stated that the present complaint was filed on 12.09.2014. His directorship with Krishna Maruti Ltd commenced w.e.f. 01.09.2015 and the same being a subsequent event cannot be the basis of deciding the charge in the present complaint. He stated that there is no bar as such to holding to a position as that of a Director in a company by a member of the Institute and such position can be held upon permission being taken from the Institute. The Respondent stated that he was required to take permission from the Institute which was inadvertently overlooked and for such a minor lapses, he cannot be held guilty of professional misconduct. He stated that the true and correct position is that he was earlier providing consultancy services to the Company (Krishna Maruti Ltd.) and became a director in the Company only on 01.09.2015 which is a subsequent event to the filing of the present complaint as well as the earlier written statement.

4.3 In respect of next charge related to providing wrong information to the Institute, the Respondent stated that the prima facie opinion does not reveal which information, statement, return or form submitted by the Respondent to the Institute contains particulars which are false and which the Respondent knows to be false.

4.4 The Respondent denied the charge that his firm has audited the accounts of the Company and other concerns related to the Company, while the Respondent was an employee of the said Company.

5. The Committee observed that the Complainant vide his letter dated 5<sup>th</sup> February, 2018 submitted following contentions in support of the charges:-

5.1 The Complainant stated that in para 7.4 of the prima facie opinion, it is clearly mentioned that the Respondent was in full time employment along with holding certificate of practice during the period 2011 to 2014 and no specific permission of the Council of the Institute had been sought in this regard.

5.2 The Respondent was receiving salary from Krishna Maruti Limited and his salary slip, copy of Corporate Salary Bank Account showing Salary being paid every month into his

account. Further, the intimation sent to the Respondent firm under Section 143(1) of the Income Tax Act, 1961 for Assessment year 2012-13 clearly shows that the amount declared under the head of income from salary by the Respondent itself.

5.2.1 The Complainant stated that if the Complainant was providing consultancy services to the Company but he did not clarify as to why he received salary in his account.

6. After taking into the submissions and facts on record, the Committee gives its findings as under:-

7. As regard the charge of wrongly claiming that his name has never been removed from the Register of Members, the defence of the Respondent firm was that the Complainant did not disclose or reveal as to where and before which forum or in which communication, the Respondent had made claim that his name has not been removed. The Committee on perusal of the documents on record, it is noted that though the aforesaid charge was made by the Complainant yet there was nothing on record to show that before which forum or in which communication, the Respondent has made claim that his name has never been removed from the Register of Members of ICAI. In absence of any documentary evidence on record, the Committee is of the view that the Respondent is **Not Guilty** of professional misconduct with respect to above charge.

8. In respect of next charge of being in employment along with holding full time COP, it is noted that the crux of the defence of the Respondent was that he was earlier providing consultancy services to the Company and he became the director in the Company on 01.09.2015 which is an event subsequent to the filing of the present complaint. In this regard, the Committee noted that the Respondent was holding COP from 2<sup>nd</sup> August, 1979 and it was cancelled w.e.f. 1<sup>st</sup> October, 2015. As per document provided by the Complainant from the MCA website, the Respondent was appointed as director of Krishna Maruti Ltd on 01.09.2015. Hence, it can be stated that since the Respondent was not holding COP on the date of his appointment as director, he was not required to seek specific permission of the

① Council.

8.1 However, on perusal of the screenshot of website of Krishna Group, it is noted that the Respondent's designation in the group had been termed as the executive Director (Finance, IT and Secretarial). As per the Complainant, the photo of the Respondent was removed subsequent to the filing of the complaint. The Committee also noted that the Respondent in application for visa to UK, mentioned that he is employed as an Executive Director (Finance) in the Company (Krishna Maruti Ltd.) and the same was confirmed from the letter of UK Board Agency. The Committee also perused the copy of saving account statement of the Respondent for the month of March, 2012, May, 2012, June, 2012, August to December, 2012, March to June, 2013 and noted that there was a credit every month in the account with the narration salary. It is also noted that the Complainant also provided copy of salary slip for the month of October, 2012 wherein employee Id of the Respondent was mentioned and the amount of net salary was matched with the amount credited in the bank account of the Respondent.

8.2 Apart from above, from the intimation under Section 143(1) of the Income Tax Act, 1961 for the Assessment Year 2012-13, it is observed that the Respondent had declared income under the head of salary. From the aforesaid facts, it was clear that the Respondent was working as employee of the Company on full time basis. Since the Respondent was also holding full time COP till 2015 and there was no satisfactory submission from the Respondent as to why he had not sought prior permission of the Council before being engaged in employment, the Committee decided to hold the Respondent **Guilty** with respect to above charge.

8.3 The Committee noted that the charge of providing false information for securing audit was not alleged in the present complaint, however, the same was alleged in the other disciplinary case filed against the Respondent firm wherein the Respondent was disclosed as member answerable. Accordingly, the said charge has been dealt with in the other disciplinary case bearing ref no.PR/248/14-DD/259/14-DC/662/17.

9. As regards the charge of conducting the audit of the Companies/ group Companies wherein the partners of the Respondent firm were employed, upon perusal of the ~~submissions~~ submissions and documents on record, it is noted that the Respondent, a partner in the

Respondent firm was drawing salary income from M/s Krishna Maruti Ltd and other partner was acting as active director in Hot Biz System Private Ltd.

9.1 On perusal of the documents on record, the Committee noted that the Complainant had only provided copy of Form 26AS of the Respondent firm. There was no other documentary evidence to show that the Respondent firm has done the audit of Krishna Maruti Ltd. However, on perusal of the record of the disciplinary case of other partners of the firm filed by the Complainant on similar grounds, it is noted that the Complainant provided the copy of bill of the Respondent firm as regard the tax audit of Krishna Grupo Antolin (P) Ltd. done by the Respondent firm. But, from the documents downloaded from MCA website, it is noted that neither the Respondent nor any partner of the Respondent firm was director of Krishna Grupo Antolin (P) Ltd. Further, there was nothing on record to show that either the Respondent or other partners of the Respondent firm were having substantial interest in the group companies as claimed by the Complainant.

9.1.1 It is also observed that one of the partners of the firm, CA. Raj Kumar Sawhney has signed audit report of SKH Cabs Manufacturing Pvt Ltd for the year ending 31st March, 2013 and Form 23B was filed by CA. Raj Kumar Sawhney on behalf of the Respondent firm. As per the Complainant, SKH Cabs Manufacturing Pvt. Ltd is a Group Company of Krishna Maruti Limited. The allegation of the Complainant was that by undertaking the audit of M/s SKH Cabs Manufacturing Pvt Ltd., the Respondent firm has undertaken the audit work of the Group Company of M/s Krishna Maruti Limited in which partners of the firms (including the Respondent in the instant matter) were alleged to be working as employee or director. It is also seen that Mr. Ashok Kapur and Mr. Sunandan Kapur were directors in both the Companies i.e. M/s Krishna Maruti Limited as well as M/s SKH Cabs Manufacturing Pvt. Ltd whose audit report has been signed by CA. Raj Kumar Sawhney.

9.1.2 However, it is observed that there was nothing on record to show that the Company, SKH Cabs Manufacturing Pvt Ltd was either holding or subsidiary companies of Krishna Maruti Limited or to show as to how both the companies were connected to each other. Further, on perusal of financial statement of Krishna Maruti Ltd for the financial years 2011-12 and 2013-14 downloaded from MCA website, it is further noted that SKH Cabs Manufacturing Pvt. Ltd was neither shown either as subsidiary nor holding companies or as

related party of Krishna Maruti Ltd. In absence of any relationship between these two companies, it cannot be stated that Krishna Maruti Ltd was having any substantial interest in SKH Cabs Manufacturing Ltd of which audit was conducted by Mr. Raj Kumar Sawhney, the other partner of the Respondent firm. Further, in case of other group companies i.e. Krishna Group Antolin Private Limited and Krishna Quinette Seats Pvt Ltd, it is noted that auditor of these companies for the year 2011 and 2012 were not the Respondent firm. Hence, the charge that the Respondent firm was auditor of the companies in which the partners of the firm were having substantial interest does not stand at all.

9.1.3 Also, the Committee on perusal of Form 26AS (TDS statement) of the Respondent firm noted that the name of M/s Krishna Maruti Ltd. was appearing therein with the name of some other Companies which indicates that the Respondent firm has rendered professional services to Krishna Maruti Ltd. However, it is noted that the Respondent firm was not auditor of M/s. Krishna Maruti Ltd, Krishna Quinette Seats Pvt Ltd and Krishna Groupo Antolin Pvt Ltd. In view of above facts, the Committee decided to hold the Respondent not guilty with respect to charge related to audit of group companies.

10. As regard the charge that audit was performed by individuals who are neither partners nor employees of the Respondent firm, it is noted that as per clause (2) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member of the Institute would be held guilty of professional misconduct if he *"certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice;"*. There is nothing on record which shows that audit was performed by the person who were not Chartered Accountants or the fees received from the clients was shared with non-chartered accountants. Further, there is no bar if the examination of financial statement is made by a Chartered Accountant in practice who is neither partner or in employment of the firm. Accordingly, the Committee decided to hold the Respondent **Not Guilty** with respect to this charge.

### Conclusion

11. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning Clause (11) of Part I of the First Schedule

to the Chartered Accountants Act, 1949 in respect of charge being in employment / other engagement besides holding full time COP.

11.1 In respect of other charges related to the wrong claim made by the Respondent about removal of his name, audit of group companies of Krishna Maruti Ltd and the audit being performed by the persons who were neither partners nor employees of the Respondent firm, the Respondent is **Not Guilty** of professional misconduct falling within the meaning of Clause (4) of Part I of Second Schedule and Clause (3) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-  
(CA. PRAFULLA PREMSUKH CHHAJED)  
PRESIDING OFFICER

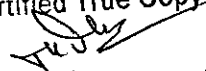
Sd/-  
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))  
GOVERNMENT NOMINEE

Sd/-  
(MS. RASHMI VERMA, I.A.S. (Retd.))  
GOVERNMENT NOMINEE

Sd/-  
(CA. BABU ABRAHAM KALLIVAYALIL)  
MEMBER

Sd/-  
(CA. DAYANIWAS SHARMA)  
MEMBER

DATE : 03<sup>rd</sup> February, 2020  
PLACE : New Delhi

Certified True Copy  
  
Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
ICAI Bhawan, I.P. Marg, New Delhi-110 002