

CONFIDENTIAL

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

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

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

File No. : [PR- 108/2016-DD/136/2016/DC/724/2017]

In the matter of:

**CA. Dipali P. Sopariwala,
403/4, Dhyanyog Apartment,
Sutaria Town,
Ghod-Dod Road,
SURAT – 600 095**

....Complainant

Versus

**CA. Dilip Kumar M. Gheewala,(M. No. 016843)
M/s. D.M. Gheewala & Co.,(FRN 103170W)
Chartered Accountants,
257/258, Shankeshwar Compld,
Opp. Raymonds,
Majura Gate,
SURAT – 395002.**

.....Respondent

MEMBERS PRESENT:

Shri Rajeev Kher, Government Nominee and Presiding Officer (Through VC)

CA. Amarjit Chopra, Government Nominee (Through VC)

CA. Babu Abraham Kallivayalil, Member (Through VC)

DATE OF FINAL HEARING : 12th November 2021 (Through Video Conferencing)

PARTIES PRESENT : None of the parties were present and Committee decided to proceed ex-parte

CHARGES IN BRIEF:-

1. The Committee noted that in present case the Director (Discipline) hold the Respondent Prima-facie Guilty of Professional Misconduct falling within the meaning of Item (2) of Part III of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 on the charge that the Respondent firm has not submitted details and documents regarding removal of the Complainant's name as 'Part-time paid Assistant' in the Institute's records since January,2008.

BRIEF FACTS OF THE PROCEEDINGS:

2. The Committee noted that none of the party was present before it. The office apprised the Committee that the Complainant had informed over phone that her counsel is of old age and she do not want to pursue the present matter as she left her practice also. The Committee noted that Respondent earlier vide his email dated 13th September, 2021 had submitted that he is around 81 years of age and it is not possible to him to undertake journey more particularly in COVID. His also requested that the Committee may consider his submission on record and decided the matter ex-parte.
 - 2.1 The Committee looking into facts of case and in absence of both parties decided to proceed the present matter ex-parte. The Office briefed the facts of case. The Committee after considering the matter directed the Office to check the status of the appearance of name of the Complainant in MEF records of Respondent Firm for concerned period with Professional Development Committee of ICAI and concluded the hearing by reserving its judgment in the instant matter.
 - 2.2 Thereafter, this matter was placed in meeting dated 27th December 2021 for consideration of the facts and arriving at a decision by the Committee. The case

was considered by the same members who earlier heard this case. The Committee noted that as per its direction given in previous meeting held on 12th November 2021, the office had gathered information from Professional Development Committee of ICAI. Keeping in view the facts and circumstances of the case, material on record and submissions of the parties, the Committee passed its judgement.

FINDINGS OF THE COMMITTEE

3. The Committee noted that the Complainant was working as part-time paid assistant with Respondent firm. The allegation of the Complainant is that the M/s. D.M. Gheewala & Co. i.e. the Respondent firm has not submitted details and documents regarding removal of the Complainant's name as 'Part-time paid Assistant' in the Institute's records since January, 2008.
4. The Committee also noted the submission of the Respondent in this regard whereby he inter-alia submitted as under:
 - a. That the Complainant had joined the Respondent firm on 27th September 1999 as paid assistant and continued till 31st December 2007 and was also a partner in the partnership firm M/s. DMVA & Associates w.e.f. from 1st April, 2000.
 - b. That after filing her resignation letter dated 16th November 2007, the Complainant stopped reporting to their office. The Complainant discontinued attending his office from January, 2008 despite the fact that her resignation letter dated 16.11.2007 was rejected by him.
 - c. During that time the Respondent came across several papers, in relation to M/s. DMVA & Associates, exclusively signed by the Complainant in her capacity as partner in the said firm, containing issuance of several Net Worth Certificates worth Rs.25,54,87,080/- by her using the name of the firm without the concurrence and behind the back of the other partner and collecting fees from the clients without ever passing it to the firm.

5. The Committee noted that both the Complainant and the Respondent have failed to inform to Office that the Complainant has left the Respondent Firm. Accordingly, the Committee observed that both parties have not approached before it with clean hands.
6. The Committee also noted that while concluding this case on 12th November 2021, it was of view that the before taking decision it needs to be ascertained that as to whether the Respondent Firm had taken benefit of MEF by including name of the Complainant. The Committee noted that Professional Development Committee of ICAI had submitted the desired information by mentioning that the Respondent Firm name is not appearing in their Panel from the year 2004-05 to 2016-17.
7. Accordingly, the Committee noted that no benefit has been derived by the Respondent firm by not informing for the removal of the Complainant's name as 'Part-time paid Assistant' in the Institute's records since January, 2008.
8. Upon consideration of all the facts of the case vis -a vis the fact that the Complainant is not interested in pursuing the matter further and the Respondent is of old age, the Committee decided to extend benefit in favour of the Respondent and exonerated him from the charges alleged.

CONCLUSION

9. In view of the above findings stated in above paras vis a vis material on record, the Committee in its considered opinion hold the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (2) of Part III of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.
10. **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 order for closure of this case against the Respondent.

sd/-
(SHRI RAJEEV KHER, IAS RETD.)


PRESIDING OFFICER AND GOVERNMENT NOMINEE

approved & confirmed through email
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

approved & confirmed through email
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

DATE: 11TH FEBRUARY, 2022

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


नीलम पुंडीर / Neelam Pundir
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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