

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2022-2023)]

[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. : [PR/127/18-DD/147/18-DC/1365/2020]

In the matter of:

Nimisha Hitesh Gohil

C/o. Vijay Tailor,
185/3, Road No.11,
Jawahar Nagar, Goregaun(W)
Mumbai 400 062

.....Complainant

Versus

CA. Hetal Dhansukhlal Gohil (M.No.145760)

Room No.58, 5th Floor,
Shanti Bhavan, 47,
Old Hanuman Lane,
Kalbadev,
Mumbai 400 002

.....Respondent

MEMBERS PRESENT:

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

Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)

CA. Cotha S Srinivas, Member (Present in person)

DATE OF FINAL HEARING : 13.07.2022 (Through Physical/ Video Conferencing Mode)

PARTIES PRESENT :

RESPONDENT : CA. Hetal Dhansukhlal Gohil (Through Video Conferencing mode)

CHARGES IN BRIEF:-

1. The Committee noted that the charge on which the Respondent was held Prima-Facie Guilty by the Director (Discipline) of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 is that the Respondent filed the Income Tax Returns of the Complainant for the Assessment Years 2012-13, 2013-14 and 2014-15 without the knowledge and consent of the Complainant.

BRIEF FACTS OF THE PROCEEDINGS:

2. On the day of the final hearing held on 19th July 2022, the Committee noted that the Complainant was not present despite notice duly served upon her. The Respondent was present through Video Conferencing mode. The Committee noted that this matter was earlier fixed on 25th April 2022 and was adjourned, after taking the Respondent on Oath, to provide one more opportunity to the Complainant.
3. The Committee noted that reasonable opportunities to the Complainant were already given and, due to her continuous absence, the Committee decided to hear the matter ex-parte the Complainant. The Respondent on the day of the final hearing made detailed submissions in her defence. After considering all papers available on record and after detailed deliberations and recording the .submissions, the Committee decided to conclude the matter.

FINDINGS OF THE COMMITTEE

4. The Committee noted that while discussing the background of the case, noted that the Respondent submitted that the marriage of the Complainant to her brother was not workable, and the Complainant left her marital house on 29th September 2013. The Respondent further submitted that the Complainant started filing baseless complaints in various Courts and filed complaint against her also

with ICAI as she is a member of ICAI. The Respondent added that the Income Tax Return for the Assessment Years 2012-13 and 2013-14 were filed by her on the request and consent of the Complainant. She further added that at the time of the filing of returns the Complainant was living with her marital family.

5. As regards the Income Tax Return for Assessment Year 2014-15, the Committee noted that the Respondent denied having filed the said Income Tax Returns as the Complainant left her marital house on 29th September 2013 and was living with her parents. The Respondent further stated that the Complainant wanted to use this complaint filed with ICAI as harassment tactics against the Respondent and her family.
6. The Committee noted that the present matter arises out of family dispute between the Complainant and the brother of the Respondent. The Respondent admitted of filed her income tax returns for two financial years with the consent of the Complainant as they share good relation and out of family terms. The Committee categorically asked that as to how her email id and phone number appeared in income tax return of the Complainant. On the same the Respondent submitted that while filing the Income Tax returns, since, both were living in same family, she added her own email id and phone number in the Income Tax Return of the Complainant.
7. The Committee on perusal of various ITR's on record noted that the income tax returns for different assessment year of the Complainant were filed as under:

Assessment year	Name of the Assessee	Income Shown	Date of filing of ITR	I.P Address mentioned
2012-13	Nimisha Tribhovanbhai Vaghela	Rs.189410/-	31-08-13	111.91.75.52

2013-14	Nimisha Tribhovanbhai Vaghela	Rs.199800/-	31-08-13	111.91.75.52
2014-15	Nimisha Tribhovanbhai Vaghela	Rs.217850/-	24-07-14	111.119.207.231

The Committee noted that the fact that ITR for A.Y. 2014-15 was filed from different I.P. address, strengthens the claim of the Respondent that she filed the Income Tax return of the Complainant up till the date (i.e. 29th September 2013) the Complainant was living in her marital house.

8. The Committee observed that the amount of income as filed in Income Tax returns of the Complainant were Rs.189410, Rs.199800 and Rs.217850 for Financial Years 2012-13, 2013-14 and 2014-15 respectively which was much below the taxable limit. The Respondent filed the income tax returns of the Respondent in good faith and out of family relations.
9. The Committee also noted that the brother of the Respondent filed these Income Tax Returns before the VIIth Family Court Mumbai at Bandra (in Interim Application No. 35 of 2016 in Petition No. C-86 of 2015) filed by the Complainant against him. The Committee noted that as per the order dated 22nd September 2017, given by Smt. P.F. Sayyad, Judge in that matter, the Complainant did not file a counter affidavit (which she could easily file) to falsify the claim relating to her income as per Income Tax Return(s) (page W-5 of Prima-facie opinion). The hon'ble Court also noticed that the Complainant had suppressed her income (page W-6 of Prima-facie opinion).
10. Looking into the above, the Committee found that the Complainant misused this forum to resolve the personal/family dispute between her and the brother of the Respondent. The Committee accordingly decided to exonerate the Respondent from the charge made by the Complainant.

CONCLUSION

11. In view of the above findings stated in above para's vis a vis material on record, the Committee hold the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (3) of Part II of Second Schedule to the Chartered Accountants Act, 1949.
12. 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 passes Order for closure of this case against the Respondent.

Sd/-

(CA. (DR.) DEBASHIS MITRA)

PRESIDING OFFICER

Sd/-

(MRS. RANI NAIR, I.R.S. RETD.)

GOVERNMENT NOMINEE

Sd/-

(CA. COTHA S SRINIVAS)

MEMBER

DATE : 26.08.2022

PLACE: NEW DELHI

प्रमाणित सत्य प्रतिलिपि / Certified true copy

मुकेश कुमार मिश्रा / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासनोपचार विभाग / Disciplinary Directorate
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