

CONFIDENTIAL

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

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

Findings cum Order 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/21A/2018/DD/76/2018/DC/1449/2021]

In the matter of:

**Shri Deepak Jindal**  
301,Ward no 14  
Near Old PatwariKhana,  
Shekhan Wala Mohala  
Sunam – 148028 (Punjab)

.....Complainant

**Versus**

**CA. Narinder Singh ... (M.No.500686)**  
Royal Complex, 1st Floor  
Sheranwala Gate  
Patiala – 147001

.....Respondent

MEMBERS PRESENT (through Video- Conferencing Mode):

CA. (Dr.) Debashis Mitra, Presiding Officer  
Ms. Dakshita Das, IRAS (Retd.), Member, Government Nominee  
CA. Mangesh P Kinare, Member  
CA. Sripriya Kumar, Member

**DATE OF FINAL HEARING : 26.12.2022**

PARTIES PRESENT

**Respondent: CA. Narinder Singh (Through VC)**  
**Counsel for the Respondent: CA. C.V. Sajan(Through VC)**

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**Charges in Brief:-**

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9, the Respondent has been held Guilty of Professional and Other Misconduct within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.
2. The allegations wherein, the Respondent was held Prima facie Guilty are as follows:
  - 2.1 That the Respondent was appointed as statutory auditor in the AGM of M/s Ozzy Business Consulting Ltd. (hereinafter referred to as the 'Company') held on 30.9.2014 and he had to be auditor till the conclusion of next AGM likely to be held on 30.09.2015 and therefore the Financial statements /Annual accounts for the year ended 31.03.2015 had to be signed by him but Financial statements /Annual accounts for the year ended 31.03.2015 had been audited and signed by M/s. Garg Mohit & Chartered Accountants and not by the Respondent and was submitted to ROC although M/s Mohit Garg was not statutory Auditor. However, the Financial Statements /Annual Accounts for the year ended 31.03.2015 submitted to Excise and Taxation Department, Punjab were audited and signed by Respondent.
  - 2.2 Two different sets of Financial statements for the F.Y. 2014-15 were prepared for same year out of which one is audited and signed with entirely different figures by the Respondent and submitted to Excise and Taxation Department, Punjab.

**Brief facts of the Proceedings:**

3. The Committee noted that the Respondent along-with Counsel CA. C.V. Sajan was present through Video Conferencing Mode. The Respondent apprised the Committee that the Complainant of subject case has since expired. Therefore, the



Committee noted that the matter would be heard in the presence of the Respondent only. Thereafter, the Respondent and his Counsel both gave declaration that there was nobody present except them in their respective rooms from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form.

4. The Committee noted that in the meeting held on 13/10/2022, the charges as stated in para 2.1 to 2.2 above were read out to the Respondent and he pleaded not Guilty and opted to defend the charges. Thereafter, the Committee directed the Counsel for the Respondent to make submissions on the charges wherein the Respondent has been held prima facie guilty of professional and other misconduct. The Counsel for the Respondent referred to written submissions brought on record including latest written submissions dated 26/08/2022 and 09/09/2022.

4.1 The Committee noted that no intimation was received from the Complainant side. The Counsel for the Respondent relied upon his written submissions wherein he inter alia submitted the following:

- a) The Respondent had not conducted the audit nor certified any financial statements for the year ended 31-03-2015. The financial statements alleged to be submitted to Excise Department, Punjab allegedly with the signature of the Respondent were fabricated documents.
- b) The Complainant has not substantiated; how he believed that the Respondent had attested the alleged Balance sheet of the Company claimed to have been submitted with Excise Department.
- c) The Respondent came to know about the existence of alleged financial statement only when he received the copy of present complaint along with alleged balance sheet and Profit and loss account from the office of Director (Discipline).
- d) A Police complaint dated 28<sup>th</sup> May 2019 was immediately filed by the Respondent (on record) however no conclusive action was taken by the police expressing difficulty in absence of original documents/financial statements.



4.2 For non-submission of written statement before the Director (Discipline) at prima facie stage, the Counsel for the Respondent submitted that the Company/management was unaware about such filing of financial statements with the excise department. There were internal disputes amongst shareholders and the Patiala group of management was putting blame on Delhi group of shareholders who were behind the allegations against the Respondent. The Counsel for the Respondent added that the Company management based at Patiala assured the Respondent to find out the culprit, but their co-operation did not result into action and therefore police Complaint was filed by the Respondent.

4.3 The counsel for the Respondent stated that the Respondent had resigned from auditorship of the Company on 10/10/2014 and financial statements for financial year 2014-2015 had been audited and certified by CA. Mohit Garg, which were brought on record by the Complainant himself and even the Complainant had filed a separate disciplinary case against CA. Mohit Garg. Hence there is no ambiguity on who was statutory auditor of the Company for FY 2014-15. Therefore, the absence of date of acknowledgement on resignation letter of the Respondent has no significance in the present matter.

4.4 Wherein the signatures of the Director of the Company appearing on impugned balance sheet of the Company submitted to Excise Department appeared to be similar, the Counsel for the Respondent submitted that similarity or otherwise of signatures borne on a fabricated set of documents and that too on photocopies, have no credibility or evidentiary value. Moreover, another police complaint was filed by the Director of the Company in this regard.

4.5 The Counsel for the Respondent submitted that the statutory auditor for FY 2014-2015 was CA. Mohit Garg. Further, the fact that the Respondent was appointed as statutory auditor for FY 2013-2014 of the Company has been verified from Form No. ADT – 1 filed by the Company on 12/09/2014. The Counsel further submitted that the Respondent was not associated with either of the financial statements of the said Company; and reiterated that Respondent had no role in

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alleged financial statements filed with Excise Department, which was basically a fabricated and forged document.

5. After recording the arguments of the Counsel for the Respondent as above and documents/information available on record, the Committee concluded hearing in the matter.

### **Findings of the Committee**

6. The Committee observed that the Complainant could not appear before the Committee to substantiate the charges as he was no more. Moreover, no original set of documents/financial statements which is basic cause of the subject complaint was brought on record by the Complainant. The defence taken by the Respondent and upon perusal of various documents including police complaint made by the Respondent which was available on record proved that the Respondent had resigned from the Company on 10/10/2014 and was unaware about the second set of alleged balance sheet under the signature of the Respondent and Director of the Company for FY 2014-2015.
7. The Committee observed that it was beyond doubt that the Respondent was auditor for previous, FY 2013-14 and had resigned from the Company and No Objection Certificate was issued by him to the incoming auditor i.e. CA. Mohit Garg who was Statutory auditor for the FY 2014-15 and form ADT – 1 for appointment of statutory auditor had been filed with the Registrar of Companies. The Committee noted that a separate complaint on similar set of charges was filed by the Complainant against CA. Mohit Garg. The Committee upon perusal of said complaint, noted that CA. Mohit Garg had been Prima facie held Not Guilty by the Director (Discipline) which was considered by Board of Discipline, and then BOD upheld the opinion of Director (Discipline) and held him NOT GUILTY. The Director (Discipline) while dealing with allegation in the matter of Shri Deepak Jindal, Sunam (Punjab) -vs.- CA. Mohit Garg, Patiala [case ref. No. PR/21/18/DD/75/18], had observed as follows:

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*"It is noted that the Respondent in respect of this allegation has brought on record copy of his appointment letter (D-5) issued by the Company for the financial year 2014-15, copy of EGM Resolution (D-9 and D-10) and Notice of FGM (D-6 to D-8) in which Respondent's appointment was made and approved by the Company for FY 2014-15 and also copy of NOC (D-14) received from the previous auditor, CA. Narinder Singh. On perusal of these documents, it is noted that the offer/proposal letter for appointment as statutory auditor of the Company on 15<sup>th</sup> October 2014(D-11) in response to same, Consent letter/eligibility certificate was issued by Respondent vide his letter dated 20<sup>th</sup> November 2014(D-12 and D-13). The Respondent had also procured NOC which was received from previous auditor i.e. CA. Narinder Singh vide his letter dated 24<sup>th</sup> December 2014(D-14). These sequence of events/series of documents makes it evident that the Respondent was validly appointed as statutory auditor of the Company for FY 2014-15 when M/s Pankaj Amrit Lal & Co. have tendered their resignation resulting into casual vacancy as envisaged by section 139(8) of Companies Act 2013 and same is apparent from the reading of notice of EGM dated 14<sup>th</sup> November 2014 as well. Accordingly in light of the reasoning given it is viewed that this charge is not maintainable against the Respondent and the Respondent is held NOT GUILTY in violation of Item (7) of Part I of the Second Schedule to the Chartered Accountant Act, 1949 in respect to this charge."*

8. The Committee on perusal of online police complaint and various documents vis-à-vis oral submissions of the Respondent on record observed that in the instant matter, the charge of the Complainant has not been substantiated, as only the photocopy of the alleged Balance sheet for FY 2014-2015 allegedly filed with Excise Department was produced before the Committee and that the original Balance Sheet was not brought on record. The Committee noted that police authority also dropped its investigation, as only photocopies of alleged financial statements were produced before it.

9. The Committee noted that the Balance Sheet purported to be filed with Excise Department was produced by the Complainant only; and it was not available anywhere else. The existence of said Balance Sheet was neither within the knowledge of Company concerned nor within the knowledge of the Respondent. The Director of said Company, Mr. Prabhdyal Singh Virk had filed a police complaint dated 28/05/2019 and the Respondent had also filed separate police complaint in regard to the said fabricated Balance Sheet. The Committee opined



that in absence of any corroborative evidence produced before the Committee by the Complainant to substantiate the role and involvement of the Respondent in preparation of the alleged set of fabricated financial statement, and after considering the finding of the Director (Discipline)/Board of discipline in similar set of facts (supra), benefit of doubt be extended in favor of the Respondent and hence, it decided to exonerate the Respondent from the charges levelled against him.

**Conclusion**

10. In view of the above observations, considering the submissions of the Respondent, and documents on record, the Committee held the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part – I of Second Schedule and Item (2) of Part-IV of First Schedule and to the Chartered Accountants Act, 1949.
11. 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.

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Sd/-  
(CA. (DR.) DEBASHIS MITRA)  
PRESIDING OFFICER

Sd/-  
(MS. DAKSHITA DAS, IRAS (RETD.))  
GOVERNMENT NOMINEE, MEMBER

Sd/-  
(CA. MANGESH P KINARE)  
MEMBER

Sd/-  
(CA. SRIPRIYA KUMAR)  
MEMBER

DATE:03.02.2023

PLACE:NEW DELHI

प्रमाणित सत्य प्रतिलिपि / Certified true copy  
  
सीए. सुनील कुमार / CA. Suneel Kumar  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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