

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – IV (2023-2024)]

[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-132/2019-DD/191/2019/DC/1600/2022

In the matter of:

**CA. Chander Mohan,
C/o Sanjeev Ahuja,
Z-Career Computer Edu Institute,
Bhai Mastan Singh Road,
Near Manga Petrol Pump,
Muktsar,
Punjab- 152026**

.... Complainant

Versus

**CA. (Ms.) Sakshi Juneja (M No. 531652),
H No. 291, Street No. 2,
Crossing 7th, New Suraj Nagri,
Abohar,
Punjab- 152116**

.....Respondent

MEMBERS PRESENT:

**CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)
Shri Jiwesh Nandan, I.A.S. (Retd.), Government Nominee (in person)
Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (in person)
CA. Mangesh P Kinare, Member (through VC)
CA. Cotha S Srinivas, Member (in person)**

DATE OF FINAL HEARING : 11th July, 2023

PARTIES PRESENT

**Respondent : CA. (Ms.) Sakshi Juneja (through VC)
Counsel for Respondent : CA. Vishal Garg (through VC)**



1. Background of the case:

1.1 There was a partnership between two Chartered Accountants, referred to as the Complainant and the Respondent, who initially entered into a partnership deed on April 1, 2015, for a term of three years, to practice the profession of Chartered Accountancy together. This partnership also involved the merger of their respective firms, namely "M/s. C M Juneja & Associates, (Complainant Firm) and "M/s. S Juneja & Associates" (Respondent Firm), through an agreement dated 31st December 2016. However, disputes and differences arose between the Complainant and the Respondent when the Respondent expressed her desire to retire from the partnership. The Respondent initially indicated her intention to retire on 28th March 2018, and subsequently on 28th May 2018, they entered into a fresh partnership deed, which eventually led to the Respondent's retirement from the partnership.

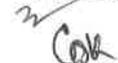
1.2 According to the Respondent, she became a Chartered Accountant in 2013 and started her firm, "M/s. S. Juneja & Associates," on 16th August 2013. In 2017, she got married, and on 14th September 2018, she gave birth to a child. Her decision to discontinue the partnership with the Complainant was attributed to personal and medical reasons. She initially informed the Complainant of her intention to retire via email on 28th March 2018. However, on 29th March 2018, she sent another email stating that she would continue to serve in the office for the next six months, up to September 2018, subject to her health issues.

1.3 The Institute of Chartered Accountants of India (ICAI) granted approval for the demerger of the Complainant Firm and the Respondent Firm in a letter dated 17th July 2018. This approval also restored the Respondent's firm's name, "M/s. S. Juneja & Associates," with its registration number "026897N," dating back to August 16, 2013.

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2. Charges in brief:-

- 2.1 The Respondent has erred and worked unethically in knowingly providing wrong/false information to the Professional Development Committee (PDC) of ICAI for empanelment for statutory branch audits for the Financial Year 2018-19.
3. The relevant issues discussed in the prima facie opinion dated 06th August, 2020 formulated by Director (Discipline) in the matter in brief is given below:-
- 3.1 The Respondent acted unethically by providing false information to the Professional Development Committee (PDC) of the Institute of Chartered Accountants of India (ICAI) when applying for empanelment for statutory branch audits for the financial year 2018-19. The Respondent submitted her Multipurpose Empanelment Form (MEF) even though her firm's partnership with the Complainant had ended on 28th May 2018. The Complainant claims that the Respondent's submission of the MEF was done with malicious intent.
- 3.2 ICAI had granted approval for the demerger of the Complainant Firm and the Respondent Firm, and her firm's name was restored from 16th August 2013. She filed the MEF on 24th August 2018, only after this restoration had occurred. She also argued that most of the MEF fields are auto-filled with information from the ICAI database, and she submitted the form as per the data available in the database. The Respondent knowingly filed the MEF to the detriment of the Complainant Firm, in which she had been a partner till 28th May 2018.
- 3.3 The partnership between the Complainant and the Respondent existed from 1st April 2015 to 28th May 2018. The Respondent submitted the MEF on 24th August 2018, claiming that her firm was in existence on 1st January 2018. However, the Respondent's firm was restored by ICAI only on 17th July 2018. Therefore, the Respondent's argument that her firm existed on 1st January 2018, was not acceptable. Consequently, Director (Discipline) in prima facie Opinion dated 06th August 2020 has held that the Respondent is prima facie guilty of professional misconduct under Item (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.



3.4 The Director (Discipline) in Prima Facie Opinion dated 06th August, 2020 had held the Respondent prima facie guilty of Professional Misconduct falling within the meaning of Clause (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act. The said clause to the Schedule to the Act, states as under:

Clause (3) of Part II of Second Schedule:

“A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

Clause (3): includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false;

3.5 The Prima Facie Opinion formed by Director (Discipline) was considered by the Disciplinary Committee at its meeting held 10th July 2022, New Delhi. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the prima facie opinion of the Director (Discipline) that the Respondent is prima facie GUILTY of Professional Misconduct falling within the meaning of Item (3) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee, also directed the Directorate that in terms of the provisions of sub-rule (2) of Rule 18, the prima facie opinion formed by the Director (Discipline) be sent to the Complainant and the Respondent including particulars or documents relied upon by the Director (Discipline), if any, during the course of formation of prima facie opinion and the Respondent be asked to submit his Written Statement in terms of the provisions of the aforesaid Rules, 2007.

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4. Date(s) of written submissions/pleadings by parties:

The relevant details of filing of documents in the instant case by the parties are given below:

S.No.	Particulars	Dated
1.	Complaint in Form 'I' filed by the Complainant	3 rd June, 2019
2.	Written Statement filed by the Respondent	8 th December, 2019
3.	Rejoinder if any	10th February, 2020
4.	Prima facie Opinion by Director(Discipline)	06 th August 2020
5.	Written Submissions by the Respondent after PFO	Yes, Dated 26/04/2023
6.	Further Rejoinder submitted by Complainant before the Committee	Yes, Dated 01.06.2023

5. Brief facts of the Proceedings:

5.1 The details of the hearing fixed and held/adjourned in said mater is given as under:

Particulars	Date of Meeting(s)	Status
1 st time	22 nd May, 2023	Part heard and adjourned
2 nd time	20 th June 2023	Part heard and adjourned
3 rd time	11 th July 2023	Hearing Concluded and Judgement Reserved
4 th time	05 th September, 2023	Judgement delivered

5.2 On the day of first hearing held on 22nd May 2023, the Committee noted that the Respondent was present through video conferencing mode. The Complainant was not present and notice of listing of the case has been served upon him. Thereafter, the Respondent was put on oath and the Committee enquired from the Respondent as to whether she was aware of the charges; and the same were

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also read out. On the same the Respondent replied in the affirmative and pleaded Not Guilty to the charges levelled against her.

5.3 Thereafter, on the day of second hearing held on 20th June 2023, the Committee noted that the Respondent and the Counsel of Respondent CA. Vishal Garg was present through video conferencing mode. The Complainant, in an email dated 20th June 2023, informed the Committee that he was currently in an overseas Country which makes it challenging for him to participate in the Disciplinary Committee proceedings. He requested that the matter be postponed. The Committee directed the Complainant to appear before it at the next meeting. If the Complainant fails to appear, the matter will be decided ex-parte the Complainant based on the submissions made by him through his rejoinder.

5.4 The Committee then requested the Respondent's Counsel CA. Vishal Garg to present their arguments. The Counsel for the Respondent stated that written submissions dated 26th April 2023, had already been submitted. He reiterated the argument that the Respondent had submitted her Multipurpose Empanelment Form (MEF) on 24th August 2018, following the demerger and restoration of her firm by the ICAI, as per their letter dated 17th July 2018. The Respondent had filed the MEF after resigning from the partnership, indicating that her firm was in existence on 1st January 2018. The Counsel also submitted that most of the fields in the MEF form were auto-populated, and changes or modifications could not be made. Thereafter, the matter was adjourned.

5.5 Thereafter, on the day of final hearing held on 11th July 2023, the Committee noted the presence of the Respondent and her Counsel via video conferencing. The Committee noted the contents of Complainant's email dated 10th July 2023 and not acceding to his request for adjournment, decided to proceed with the case based on the documents and records available on record, as the Complainant had already been given sufficient opportunities in the past to appear before the Committee.



5.6 Thereafter, the Committee asked the Respondent's Counsel to present their submissions. The Counsel for Respondent referred to written submissions dated 26th April 2023, and reiterated that MEF form was filed by the Respondent on August 24, 2018, after the demerger and restoration of her firm by ICAI which was communicated vide letter dated 17th July 2018. The Respondent submitted the MEF form after resigning from the partnership firm. The Respondent had declared in MEF form that she was practicing as an individual and most of the fields of MEF form were auto populated. The counsel for Respondent further added that a Chartered Accountant in practice was eligible to file the MEF form as per MEF norms and thus the Respondent had filed the MEF form. He further added that Respondent was found ineligible by PDC of ICAI, and no benefit was derived by the Respondent upon filing of MEF form.

5.7 Based on the documents and information available, as well as the oral and written submissions by the Respondent's Counsel, the Committee concluded the hearing in the matter and the judgement was Reserved. The Committee extended one last opportunity to the Complainant and directed him to submit his written submissions if any within 14 days, after which the matter would be decided accordingly.

5.8 Thereafter, in the meeting held on 05th September 2023 wherein all the Members of the Committee were present, the Committee noted that the matter was concluded on 11th July 2023 and the judgement was reserved. The Committee also noted that the Complainant has failed to submit his further written submissions and based on the facts, documents, and information on record and after considering oral and written submissions made by the Respondent at the time of hearing, the Committee passed its judgement.

6. Findings of the Committee

The Committee noted the background of the case and gave its findings as under:

6.1 The Committee noted that the Respondent vide her Written submissions dated 26th April 2023 has submitted that she had filed the MEF form in her individual

capacity as a member which was permissible as per the guidelines of MEF panel and according to which she was eligible to file her application. The Respondent further submitted that as per the guidelines of MEF, the name of member/firm which is borne on the register of firms in ICAI records as on 01st January 2018 was eligible to apply for the empanelment. Since the Respondent was member of ICAI as on 01st January 2018, she was eligible to file application as per the said MEF guidelines, she had filed the application form which was accepted and allotment no. MEF 78019 was given.

- 6.2 The Committee further noted that the Respondent added that most of the fields appeared in the online MEF form were auto-filled as per information available in ICAI records/data base and no option was available for an applicant to modify any particular or information. The Respondent reiterated that the MEF application was submitted in her individual capacity as a member of ICAI which was online accepted as per Multipurpose Empanelment Form (MEF) norms.
- 6.3 The Committee also noted that the Respondent had emphasised that the eligibility to file the application was not only for a CA firm but a member of ICAI as on 01st January 2018 in her individual capacity was also eligible to file MEF as per MEF norms. Now, the Respondent submitted that as per ICAI demerger guidelines, the demerged firm can apply for demerger and its seniority will be reckoned from the date of establishment and not from date of demerger. The submissions of application for MEF was in the individual name of Respondent and that the Professional Development Committee of ICAI has informed that the member was ineligible, thereby that no empanelment/appointment in the name of Respondent was made and no benefit arising out of filing of such application was derived by the Respondent.
- 6.4 The Committee noted that the Complainant vide written submissions dated 01st June 2023 submitted that the norms for empanelment prohibited an individual member/firm which was not in existence as on 01st January 2018 to file an application for the purpose of MEF. The Complainant further submitted that the Professional Development Committee of ICAI has responded to the sole proprietorship of Respondent about her MEF application status, and not as an



individual member of ICAI. The Complainant stated that when a member of ICAI is practicing as a sole proprietor, he/she cannot be termed or treated as a separate entity/member distinct from his/her sole proprietorship.

- 6.5 The Complainant added that the issue to be considered was in relation to submission of wrong information by the Respondent in order to procure professional work at a time when the Respondent/her firm was not in existence; and that when a sole proprietorship firm name is registered with ICAI, such a member cannot file an application to ICAI for empanelment purposes in her individual capacity. The intention of the Respondent in doing such an act was to put the partnership firm of the Complainant in a loss.
- 6.6 The Committee took note of the submissions of the Respondent as well as the Complainant in the matter. The Committee in this regard observed that the issue to be determined in this case is related to the eligibility of the Respondent to file the application for MEF empanelment after demerger from the partnership firm. The Committee noted that the matter before it for consideration had primarily arisen out of a dispute between the Respondent and the Complainant while the Respondent was leaving the partnership firm, and it centred around the MEF application filed by the Respondent and its related norms.
- 6.7 The Committee observed that MEF application was to be submitted online and the same was governed by MEF norms which was in vogue at the relevant time. As regards the eligibility to file the MEF application, any member of ICAI holding COP as on 01st January 2018 was eligible to apply for the MEF for 2018-19.
- 6.8 The Committee noted that the Complainant had accepted the resignation of the Respondent from the partnership firm and relevant form was forwarded to ICAI for demerger of the firm, M/s. S Juneja & Associates, with effect from the 28th May 2018. Taking cognizance of the Form-F of the Complainant, ICAI vide its letter dated 17th July 2018 had taken note of the demerger of the firm in ICAI records and the same was communicated to the parties.
- 6.9 The Committee further observed that subsequently the Respondent had submitted her MEF application on 24th August 2018 and her application was

found ineligible. The Committee took note of the fact that the particulars to be filled in the online MEF form was auto-populated; in the sense that the particulars of member or firm was auto-populated from the ICAI data base automatically.

- 6.10 The Committee, on an overall consideration of the matter, was of the view that the Respondent had submitted her application for MEF, only after receipt of communication dated 17th July 2018 from ICAI regarding demerger of her firm (M/s S. Juneja & Associates). The Committee felt that the date of filing of MEF application was dated 24th August 2018 which was the date after the decision for demerger of her firm was taken by ICAI, albeit the fact that the particulars were auto-populated as on 01st January 2018. The Respondent had no control over the particulars to be filled in the auto-populated fields in online MEF form, and no option to modify any particulars therein was available to anyone.
- 6.11 The Committee was therefore of the view that there was no malafide on the part of the Respondent in filing the said MEF application, as a member of ICAI holding COP as on 01st January 2018 was eligible to apply MEF as per applicable norms for MEF 2018-19. The Committee also observed that the MEF application of the Respondent was found ineligible by PDC of ICAI and that the Respondent had not derived any undue benefits by virtue of simply submitting the said online form.
- 6.12 In view of the same, the Committee found no merits on the allegation levelled against the Respondent on this count and thus the same was **not maintainable**.

7. Conclusion

In view of the above findings stated in above paras, vis-a-vis material on record, the Committee gives its charge wise findings as under:

Charge(s) (as per PFO)	Findings	Decision of the Committee
Para 2.1 as given above	Para 6.1 to 6.12 as given above	NOT Guilty- Clause (3) of Part II of Second Schedule

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7.1. 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 Misconduct falling within the meaning of Clause (3) Part – II of Second Schedule to the Chartered Accountants Act, 1949.

8. Order

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 an Order for closure of this case against the Respondent.

Sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-

(SHRI JIWESH NANDAN, I.A.S. {RETD.})
GOVERNMENT NOMINEE

Sd/-

(MS. DAKSHITA DAS, I.R.A.S.{RETD.})
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)
MEMBER

Sd/-

(CA. COTHA S SRINIVAS)
MEMBER

DATE : 10/01/2024

PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
Charan Singh
वरन सिंह / Charan Singh
कार्यकारी अधिकारी / Executive Officer
अनुशासनालय निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
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