

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/122/2016-DD/188/2016-DC/983/2019]

In the matter of:

**CA. Sant Kumar Gupta (M. No. 014263)**

Proprietor, M/s S. K. Gupta & Co.,  
EG-934, 2<sup>nd</sup> Floor,  
Nehru Garden Road,  
Jalandhar – 144005

... **Complainant**

**-vs-**

**CA. Jatinder Angrish (M. No. 099182)**

M/s Jatinder Angrish & Associates  
Chartered Accountants  
W.H. 134, First Floor,  
NS Finance, Near Harmeet Transport,  
Kapurthala Road,  
Jalandhar (Punjab) – 144008

M/s Jatinder Angrish & Associates  
Chartered Accountants  
W.H. 141, First Floor,  
Near Harmeet Transport,  
Kapurthala Road,  
Jalandhar (Punjab) – 144008

... **Respondent**

**MEMBERS PRESENT:**

**CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)**

**Shri Jiweesh Nandan, I.A.S. (Retd.), Government Nominee (in person)**

**CA. Mangesh P Kinare, Member (in person)**

**DATE OF FINAL HEARING : 14<sup>th</sup> September 2023**

**PARTIES PRESENT**

**Respondent : CA. Jatinder Angrish (through VC)**

**Counsel for the Respondent : CA. Lakshay Gupta (through VC)**



1. **Background of the Case:**

The Complainant was appointed to conduct the tax audit of M/s The Phillaur Primary Co-op. Agri. Development Bank Limited, Goraya (hereinafter referred to as the "**Bank**") in accordance with Section 44AB of the Income Tax Act, 1961. This appointment was made for the financial years 2013-14 and 2014-15 vide appointment letters dated 22<sup>nd</sup> August 2014 and 15<sup>th</sup> July 2015 respectively which were signed by the Audit Officer, Co-operative Societies. Subsequently, the Respondent was also engaged directly by the Bank to conduct the tax audit for the financial year 2014-15 for which the Complainant had already been appointed by the Audit Officer of Co-operative Societies.

2. **Charges in brief:**

2.1 The Complainant was appointed by the Audit Officer of the Co-operative Societies to conduct the tax audit of the Bank for the financial year 2014-15. The Complainant had also conducted the tax audit of the Bank for the financial year 2013-14. But despite being aware of the said appointment of the Complainant to conduct the tax audit of the Bank for the Financial year 2014-15, the Respondent accepted the appointment made by the Bank directly for the same assignment in violation of the procedure laid down in the Co-operative Societies Act.

2.2 The Respondent accepted the appointment as Tax Auditor of the Bank despite the fact that the professional fees due to the Complainant for conducting the tax audit for the financial year 2013-14 had not been paid by the Bank. The Complainant had also filed a recovery suit before the Civil Court for the same which was pending.

3. **The relevant issues discussed in the Prima facie opinion dated 05<sup>th</sup> June 2018 formulated by Director (Discipline) in the matter in brief is given below:**

3.1 As regards first charge, it was observed that Section 48(1) of the Co-operative Society Act of the Punjab, makes it clear that the power to audit or get the

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same audited lies with the Registrar of Societies. The letter dated 15<sup>th</sup> July 2015 issued by the office of Registrar of Co-operative Societies in respect of allotment of audit also clearly states to ensure to get the Tax Audit from the designated Chartered Accountants. The Respondent, though aware of such directions contained in the letter dated 15<sup>th</sup> July 2015, has chosen to accept the said appointment done by the Bank directly for conducting the tax audit of the Bank. The Respondent in his Written Statement has not given any specific response to this allegation except for the fact that his appointment was made by the Bank. It was felt that even if the Bank had appointed the Respondent for conducting the Tax Audit, the right course of action would have been to advise the Bank to take up the matter with the office of the Registrar rather than accepting the said appointment which prima facie was not in accordance with the provisions of the Act. The action of Respondent in accepting the audit while being aware of the procedure of appointment followed by the Registrar of Co-operative Societies and the dispute over fees pending for settlement in court shows his willingness to accept the audit assignment, without caring for procedure or aspects of fees pending.

- 3.2** As regards second charge, the request for No Objection Certificate (NOC) was duly sent to the Complainant by the Respondent vide letter dated 22<sup>nd</sup> September 2015 and the same was also communicated to the Complainant through e-mail. Further, a perusal of another letter dated 22<sup>nd</sup> September 2015 shows that the Bank, while issuing the appointment letter to the Respondent, had also mentioned about the pending court case with the Complainant in the said letter. Thus, the Respondent being a professional should have ascertained the reason for the court case. In such circumstances, he should have either impressed upon the Bank to resolve the same before accepting the appointment or should have advised the Bank to take up the matter with the office of the Registrar for proper appointment of another Chartered Accountant to conduct the Tax Audit for the financial year 2014-15.
- 3.3** The Director (Discipline) in his Prima Facie Opinion dated 05<sup>th</sup> June 2018 has opined that the Respondent was *prima facie* Guilty of Professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of the First



Schedule and Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949. The said Clauses of the Schedules to the Act, states as under:

Clause (2) of Part IV of First Schedule:

*"A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he:*

*(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."*

Clause (1) 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:*

*(1) contravenes any of the provisions of this Act or the regulations made thereunder, or any guidelines issued by the Council."*

- 3.4 The Prima facie opinion dated 05<sup>th</sup> June 2018 formed by the Director (Discipline) was considered by the Disciplinary Committee at its Meeting held on 15<sup>th</sup> January 2019 at 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 GUILTY of Professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule and Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act. They 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 document relied upon by the Director (Discipline), if any, during the course of formation of prima facie opinion and the Respondent shall be asked to submit his Written Statement in terms of the provisions of 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	20 <sup>th</sup> May 2016
2.	Written Statement filed by the Respondent	18 <sup>th</sup> August 2016
3.	Rejoinder if any	21 <sup>st</sup> September 2016
4.	Prima facie Opinion by Director (Discipline)	05 <sup>th</sup> June 2018
5.	Further Written Submissions by the Respondent	02 <sup>nd</sup> March 2018 ( <i>sic</i> , received on 11 <sup>th</sup> March 2019), 01 <sup>st</sup> April 2019 and 11 <sup>th</sup> July 2023
6.	Further Written Submissions by the Complainant	13 <sup>th</sup> March 2019

5. **Further written submissions filed by the Respondent:**

- 5.1 The Respondent vide his additional submissions dated 02<sup>nd</sup> March 2018 (*sic*, received on 11<sup>th</sup> March 2019), 01<sup>st</sup> April 2019 and 11<sup>th</sup> July 2023 argued on the merits of the matter and submitted that his appointment as the Tax Auditor was made by the Bank by following proper procedure. On receipt of panel from the Audit office, Jalandhar, the Bank approached the Audit Office for change of their auditor for the Financial Year 2014-15. The Bank submitted its request letter to the Audit officer on 04<sup>th</sup> August 2015 for the same to reason that previous auditor i.e., the Complainant had demanded unjustified fee for the tax audit for the Financial Year 2013-14. Due to which a dispute arose between them regarding the payment of fee and the Complainant firm had filed a court case for recovery of dues. Based on instructions from the Audit officer, the Bank conducted a board meeting on 22<sup>nd</sup> August 2015 for change

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of auditor and unanimously decided in the meeting to change the auditor and appointed the Respondent firm from the list of panel. The Bank confirmed the Respondent firm's appointment as tax auditor for the Financial Year 2014-15 vide letter dated 22<sup>nd</sup> September 2015.

5.2 The Respondent further submitted that post the acceptance of appointment letter from the Bank, he sent a request letter dated 25<sup>th</sup> September 2015 to the Bank to settle previous year's dues of the Complainant. The Bank vide letter dated 28<sup>th</sup> September 2015 replied that they were not authorized to make the payment to the Complainant, in the capacity of being a previous auditor since a civil suit for the recovery of dues was filed by the Complainant which was pending in the Court. The Respondent further submitted that the Bank had also paid the fee of Rs. 5,500/- for the tax audit for the Financial Year 2012-13 to the tax auditor namely M/s S. K. Kondal & Co. against the bill of Rs. 10,000/- raised by them.

6. **Further written submissions filed by the Complainant:**

6.1 The Complainant vide his letter dated 13<sup>th</sup> March 2019 filed his submissions stating that the appointing authority was the Registrar of Co-operative Society and not the sub-office of the Audit officer. If the appointing authority was Registrar of Co-operative Society, then the decision for the change of auditor could only be taken by the Registrar. The correct procedure was not adopted either by the auditee Bank or by the Respondent. Moreover, the Complainant requested the Committee to exempt him for his appearances in the matter due to his bad health.

7. **Brief facts of the Proceedings:**

7.1 The details of the hearing(s) fixed and held/adjourned in said matter is given as under:

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Particulars	Date of meeting(s)	Status
1 <sup>st</sup> time	02 <sup>nd</sup> May, 2023	Adjourned at the request of the Respondent.
2 <sup>nd</sup> time	17 <sup>th</sup> July, 2023	Part heard and adjourned.
3 <sup>rd</sup> time	14 <sup>th</sup> September, 2023	Hearing concluded and decision taken.

**7.2** On the day of first hearing on 02<sup>nd</sup> May 2023, the Committee noted that the Respondent vide email dated 26<sup>th</sup> April 2023 has sought adjournment on medical grounds. The Complainant was also not present and vide email dated 24<sup>th</sup> April 2023, he had requested for an exemption to appear in the matter as he was not keeping well and had nothing more to submit in the matter. The Committee acceded to the adjournment request of the Respondent and adjourned the matter to a later date.

**7.3** Thereafter, on the day of second hearing on 17<sup>th</sup> July 2023, the Committee noted that the Respondent along with his Counsel were present through Video Conferencing Mode for the hearing. The office apprised the Committee that the Complainant was not present and notice of listing of the case had been served upon him. Vide his e-mail/letter dated 12<sup>th</sup> July 2023, he had stated that he had nothing more to add in the present case and the Committee may take decision based on the documents already submitted by him and exempt his appearance before the Committee. Thereafter, the Respondent was put on oath and the Committee enquired from the Respondent as to whether he was aware of the charges; and the same were read out as contained in the para 2.1 and 2.2 above. On the same, the Respondent replied that he is aware about the charges but pleaded Not Guilty on the charges levelled against him. Thereafter, as per Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a later date and accordingly, the matter was part heard and adjourned.

**7.4** Thereafter, on the day of next hearing on 14<sup>th</sup> September 2023, the Committee noted the presence of both Respondent and his Counsel through Video

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Conferencing mode. The office apprised the Committee that the Complainant was not present and vide e-mail dated 12<sup>th</sup> July 2023, he had submitted that he had nothing more to add in the case and the matter be decided upon merits. That in view of said plea of the Complainant, the Committee decided to proceed ex-parte the Complainant. Thereafter, the Committee asked the Respondent's Counsel to present their final submissions. The Counsel submitted that there were two charges against the Respondent. As regards the first charge pertaining to appointment of the Respondent as the Tax Auditor of the auditee Bank for Financial year 2014-15 in violation of the procedure laid down in the Co-operative Societies Act, the Counsel submitted that the appointment of the Respondent was made under the instructions of the Audit Officer, Co-operative Societies, Jalandhar, and the appointment letter to this effect was also produced. As regards the second charge pertaining to acceptance given by the Respondent for his appointment as Tax Auditor of the Bank for Financial year 2014-15 despite being aware that the payment of Complainant's professional fee for the previous financial year 2013-14 was pending, the Counsel submitted that the Complainant firm had charged excess audit fee of Rs. 10,000/- and due to this, the dispute arose between the auditee Bank and the Complainant firm, and the matter was already pending with Hon'ble Civil Court. As per verbal instructions by Audit Officer, the Bank passed special resolution mentioning that due to excess audit fee charged by the Complainant, they had changed the auditor and had appointed the Respondent as its auditor from the panel maintained by the Registrar of Societies, Jalandhar. The Committee noted that a resolution had been passed by the Society dated 22<sup>nd</sup> August 2015 for the appointment of the Respondent firm. The Respondent had also communicated through letter dated 22<sup>nd</sup> September 2015 with the Complainant seeking no objection from him.

- 7.5 After detailed deliberations, and upon consideration of the facts of the case, various documents on record, several oral and written submissions made by the Counsel for the Respondent before it, the Committee concluded hearing in the instant case.



**8. Findings of the Committee:**

8.1 As regards the first charge pertaining to the appointment of the Respondent as the Tax Auditor of the auditee bank for the Financial Year 2014-15, in contravention of the prescribed procedures laid down in the Co-operative Societies Act, the Committee observed that the Respondent, in his submissions, had asserted that his appointment as Tax Auditor of auditee bank for Financial Year 2014-15 was duly in adherence to the provisions of aforementioned Act and thus, was legally valid. The Committee noted that, following the receipt of a panel list from the Audit Office in Jalandhar, the bank approached the Audit officer seeking a change of auditor due to an ongoing dispute between the Complainant and the auditee bank over an excessive audit fee demanded by the Complainant. The Committee also noted assertions of the Respondent that bank submitted a request letter to the Audit Officer, Cooperative Societies, Jalandhar, to change its auditor due to the existing disputes. The Committee took into consideration the aforementioned request letter dated 04<sup>th</sup> August 2015, provided by the Respondent, written by the auditee bank to the Audit Officer, Cooperative Societies, Jalandhar. In this letter, the auditee bank informed the Audit Officer about the unjustified demand of Rs. 17,000/- made by the Complainant concerning Tax Audit Fee and Income Tax Return filing fee for the Financial Year 2013-14. In the said letter, the auditee bank had also clarified that it had paid Rs. 7,000/- to the Complainant, leaving an outstanding amount of Rs. 10,000/-, which resulted in a dispute. Consequently, the auditee bank requested the Audit Officer to change the Tax Auditor.

8.2 The Committee noted Respondent's contention that, in accordance with the directions from the Audit Officer, Cooperative Societies, Jalandhar, the Bank conducted a board meeting on 22<sup>nd</sup> August 2015. During this meeting, a unanimous decision was arrived to change the auditors. Subsequently, the Respondent's firm was appointed as the Tax Auditor for the Financial Year 2014-15 from the provided panel list. The bank also communicated this decision to the Audit Officer, Cooperative Societies, Jalandhar. The Respondent contended that his appointment as the Tax Auditor for the bank

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for Financial Year 2014-15 was carried out under the directions of the Audit Officer, Cooperative Societies, Jalandhar, who was authorized to appoint the auditors. The Committee took note of the said letter dated 15<sup>th</sup> September 2015, provided by the Respondent, which was written by the auditee bank and addressed to the Audit Officer, Cooperative Societies, Jalandhar. In this letter, the bank referred to the Audit Officer's instructions received in response to their earlier letter dated 04<sup>th</sup> August 2015. The Bank had informed the Audit Officer about the change in the tax auditor and the subsequent appointment of the Respondent's firm as the Tax Auditor for the Financial Year 2014-15. The Respondent also mentioned that the bank had officially confirmed his appointment as the tax auditor through a letter dated 22<sup>nd</sup> September 2015.

**8.3** The Committee also considered the arguments presented by the Complainant, who contended that the auditee bank's letter to the Audit Officer in Jalandhar for the change of Auditor was invalid, as the Jalandhar Audit Office lacked the authority to appoint any statutory auditor. The Complainant asserted that the appointing authority was the Registrar of Co-operative Society and not a sub-office of the Audit Officer. However, the Committee observed that the two appointment letters, dated 22<sup>nd</sup> August 2014 and 15<sup>th</sup> July 2015, pertaining to the appointment of the Complainant's as the Tax Auditor of the auditee bank for the Financial Years 2013-14 and 2014-15, respectively, were provided by the Complainant himself. These letters were signed by the Audit Officer, Cooperative Societies, Jalandhar. In view of the said appointment letters, the Committee noted that the submissions of the Complainant were not tenable.

**8.4** On consideration of overall facts, submissions, and material documents, the Committee carefully examined the first charge related to the appointment of the Respondent as the Tax Auditor for the auditee bank for the Financial Year 2014-15. The Committee noted that the auditee bank had approached the Audit Officer in Jalandhar for the change of its Auditor due to an ongoing dispute with the Complainant over an excessive audit fee claimed by him for the previous financial year 2013-14. The auditee bank's letter dated 4<sup>th</sup> August 2015 addressed to the Audit Officer highlights the dispute between the Complainant and the auditee bank. From the said letter, it is evident that the

bank consciously sought the Audit Officer's intervention to assign the tax audit of the bank to a different Chartered Accountant as the previous tax auditor i.e., the Complainant, had demanded unjustified tax audit and income tax return fee of Rs. 17,000/- which was fixed by the Audit Officer as Rs. 7,000/- in the letter of allotment / appointment itself. Thereafter, the bank, following the instructions of the Audit Officer, Cooperative Societies, Jalandhar, as claimed by the Respondent, conducted a board meeting on 22<sup>nd</sup> August 2015, leading to a unanimous decision to change auditors. Subsequently, the Respondent's firm was appointed as the Tax Auditor for the Financial Year 2014-15, and this decision was also communicated to the Audit Officer. The Committee also acknowledged the arguments of the Complainant, who contested the authority of the Audit Office, Jalandhar to appoint an auditor, asserting that the Registrar of Co-operative Society was the appropriate appointing authority. However, the Committee found that the appointment letters for the Complainant's firm, dated 22<sup>nd</sup> August 2014 and 15<sup>th</sup> July 2015, were himself signed by the Audit Officer, Cooperative Societies, Jalandhar. In light of this evidence, the Committee deemed that the Complainant's arguments not tenable. Thus, the Committee observed that the presented letters and information support the Respondent's claim that his appointment as the Tax Auditor of the auditee bank during the Financial Year 2014-15 was a result of due process and a response to a dispute between the auditee bank and the Complainant over audit fees. Thus, the Committee held the Respondent **NOT GUILTY** of Other Misconduct falling within meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 for this charge.

- 8.5 As regards the second charge that the Respondent had accepted the appointment as Tax Auditor of the Bank for Financial Year 2014-15 despite the fact that the audit fees of the Complainant for previous Financial Year 2013-14 was outstanding, the Committee considered the relevant provisions outlined in Chapter VII of the Council General Guidelines, 2008, specifically addressing the "**Appointment of an Auditor in case of non-payment of undisputed fees**" which reads as under:

***“A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid:***

*Provided that in the case of sick unit, the above prohibition of acceptance shall not apply.*

**7.1 Explanation 1:**

*For this purpose, the provision for audit fee in accounts signed by both the auditee and the auditor shall be considered as “undisputed” audit fee...”*

**8.6** The Committee took note of the provision stated in explanation 7.1 above, which specifies that the provision for audit fees in accounts signed by both the auditee and the auditor is to be considered as “undisputed” audit fees. In this context, the Committee considered the Profit & Loss Account of the auditee bank for the Financial Year 2013-14. The Committee observed that the provision for audit fees amounting to Rs. 9,000/- and tax audit fees amounting to Rs. 5,500/- were reported in the said Profit & Loss account, but there was no provision reported for Rs. 7,000/- and/or Rs. 10,000/-, as claimed by the Complainant through his two separate invoices. The absence of a provision for the stated audit fee also indicates the existence of a dispute between the auditee bank and the Complainant. Moreover, the Committee also noted that a court case which was filed by the Complainant against the auditee bank which was pending before Hon'ble Civil Court.

**8.7** The Committee took note of a copy of the appointment letter dated 22<sup>nd</sup> August 2014 provided by the Complainant, pertaining to his appointment as the Tax Auditor of the auditee bank for the Financial Year 2013-14. This appointment letter was signed by the Audit Officer, Cooperative Societies, Jalandhar. The letter also mentioned an increased audit fee of Rs. 7,000/- for Central Co-operative Societies, such as the auditee bank, for the said financial year. Additionally, the letter indicated that service tax would be charged in addition to the audit fee. Further, the Committee noted that the Complainant issued two separate invoices both dated 30<sup>th</sup> September 2014 to the auditee bank. The first invoice, pertaining to the 'tax audit fee for the year 2013-14,'

amounted to Rs. 7,000/-. The second invoice was for 'charges for filing the audit report online and filing the income tax return for the assessment year 2014-15,' and it amounted to Rs. 10,000/-. Consequently, the total professional fee indicated in the invoices was Rs. 17,000/-, which was notably in excess of the audit fee of Rs. 7,000/- mentioned in the appointment letter. The Committee also noted that the auditee bank had issued a cheque, bearing no. 323764, on 09<sup>th</sup> October 2014, amounting to Rs. 7,000/- in favor of the Complainant firm as payment for the tax audit fee, as stipulated in the appointment letter dated 22<sup>nd</sup> August 2014 which was not encashed by the Complainant. However, the auditee bank did not make any payment against the second invoice issued by the Complainant firm, amounting to Rs. 10,000/-. This non-payment led to a dispute between the auditee bank and the Complainant. Therefore, the Committee considered that the documents presented support the claim that the dispute over the audit fees was indeed clearly between the auditee bank and the Complainant.

**8.8** The Committee also took note of the commentary provided in the Code of Ethics 2009 under Clause (8) of Part-I of the First Schedule. It emphasizes that the existence of a dispute regarding fees might be the root cause of a change in auditors, but it would not constitute valid professional reason on account of which an audit should not be accepted by the member to whom it is offered. Thus, the Committee observed that the presence of disputes between the auditee and the previous auditor do not constitute valid professional grounds for a member to refuse or decline an audit assignment.

**8.9** The Committee also observed that the provisions outlined in Chapter VII of the Council General Guidelines, 2008 specifically address the issue of pending audit fees and do not encompass other professional fees of the previous auditor. In this case, the Committee noted that the Complainant, through an invoice dated 30<sup>th</sup> September 2014, claimed the amount of Rs. 7,000/- for the tax audit fee, which was duly paid by the auditee bank which was though not encashed by the Complainant. However, there was an additional amount of Rs. 10,000/- specified in the separate invoice for charges related to filing the audit report and income tax return for the assessment year 2014-15 which



although the Complainant claimed, but the same was not paid by the auditee bank. The Committee observed that the non-payment of professional fees other than the audit fee does not fall under the purview of the provisions stipulated in Chapter VII of the Council General Guidelines, 2008. Therefore, the Committee acknowledged the distinction between the audit fee and other professional fees and considered that the non-payment of the latter does not trigger the provisions outlined in Chapter VII of the Council General Guidelines, 2008, which specifically address pending audit fees.

**8.10** The Committee also took into account the submissions provided by the Respondent, who mentioned that upon receiving the letter of appointment from the auditee bank appointing him as its Tax Auditor for the Financial Year 2014-15, he took proactive steps. The Respondent submitted that he requested the auditee bank to settle the outstanding fees owed to the previous auditor, i.e., the Complainant. Additionally, the Committee considered the Respondent's letter dated 25<sup>th</sup> September 2015, addressed to the auditee bank, wherein he formally requested the settlement of the previous year's audit fee owed to the Complainant. In light of these submissions and documents, the Committee observed that the Respondent demonstrated a proactive approach in ensuring the resolution of the pending fees of the Complainant with the auditee bank. The Respondent's efforts to address this matter were in line with reasonable and ethical practices, indicating a commitment to resolving financial disputes between the auditee bank and the previous auditor.

**8.11** On consideration of overall facts, submissions, and documentary evidence(s)/material on record, the Committee thoroughly considered the second charge against the Respondent, which alleged that he accepted the appointment as Tax Auditor of the Bank for the Financial Year 2014-15 despite the audit fees of the Complainant for the previous Financial Year 2013-14 being outstanding. The Committee referred the relevant provisions in Chapter VII of the Council General Guidelines, 2008, specifically addressing the non-payment of undisputed fees. The Committee noted the provision in explanation 7.1, stating that the provision for audit fees in accounts signed by both the auditee and the auditor should be considered as "undisputed" audit

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fees. Upon examining the Profit & Loss Account for the Financial Year 2013-14, the Committee noted that the absence of a provision for the audit fee indicated the existence of a dispute between the auditee bank and the Complainant. Additionally, the Committee pursued the legal context, with a court case filed by the Complainant against the auditee bank for recovery of his dues. The Committee also considered the appointment letter dated 22<sup>nd</sup> August 2014 provided by the Complainant, specifying the audit fee of Rs. 7,000/- for the Financial Year 2013-14. The Committee noted that the Complainant had raised two separate invoices, one for tax audit fee and another for charges related to filing audit reports and income tax returns, totaling Rs. 17,000. The auditee bank paid Rs. 7,000, as per the appointment letter, but did not pay the remaining amount of Rs. 10,000. The Committee observed that the dispute was primarily over this outstanding amount. Furthermore, the Committee noted the Code of Ethics 2009, emphasizing that the presence of disputes between the auditee and the previous auditor does not constitute valid professional grounds for a member to refuse an audit assignment. The Committee distinguished between audit fees and other professional fees, recognizing that the non-payment of the latter does not fall under the provisions of Chapter VII of the Council General Guidelines, 2008. In evaluating the Respondent's actions, the Committee considered the proactive steps taken by the Respondent to address the outstanding fees issue of the Complainant. The Respondent's formal request to the auditee bank for settling the previous year's audit fee of the Complainant, as reflected in his letter dated 25<sup>th</sup> September 2015, demonstrated a commitment to resolve financial disputes in a reasonable and ethical manner. In light of the comprehensive examination of the presented evidence and submissions, the Committee concludes that the second charge against the Respondent lacks merit, and no professional misconduct is evident in this regard. Thus, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 for this charge.

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CA. Sant Kumar Gupta (M. No. 014262) vs. CA. Jatinder Angrich (M. No. 099192)

9. **Conclusion**

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

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above	Para 8.1 to 8.4 as above	<b>Not Guilty</b> - Clause (2) of Part IV of First Schedule
Para 2.2 as above	Para 8.5 to 8.11 as above	<b>Not Guilty</b> - Clause (1) of Part II of Second Schedule

10. In view of the above observations, considering the oral and written submissions of the Respondent and material on record, the Committee held the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of First Schedule and Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

11. **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/-  
(CA. MANGESH P KINARE)  
MEMBER

DATE: 05/02/2024  
PLACE: New Delhi

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

  
नीलम पुंडीर / Neelam Pundir  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
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