

CONFIDENTIAL

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

[Constituted under Section 21B of the Chartered Accountants (Amendment) 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/271/2017/DD/282/2017/DC/1331/2020]

In the matter of:

Mr. Suninder Sandha

House no-20, NRI Complex,
Greater Kailash- IV,

NEW DELHI- 110049

.....Complainant

Versus

CA Bajrang Lal Aggarwal (M.No.080985)

M/s B.L. Aggarwal Sohwasia & Co (FRN No- 04185N)

T-2536, 2nd Floor,

Hardhyan Singh Road,

(Near Faiz Road) Karol Bagh,

NEW DELHI- 110005

.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)

Shri Jiweh 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)

DATE OF FINAL HEARING : 26.12.2023

PARTIES PRESENT

Respondent : CA. Bajrang Lal Aggarwal (Through VC)

Counsel for Respondent : CA. C.V. Sajan (Through VC)

1. Background of the case:

The Complainant was approached by Mr. Jeevesh Sabharwal to join hands in business of the two companies namely M/s Horizon Concept Private Limited (**hereinafter referred as "HCPL"**) in which the Complainant holds 25% shareholding and remaining 75% shareholding was with M/s Horizon Buildcon Private Limited (**hereinafter referred as "HBPL"**) and Concept Horizon Infra Private Limited (**hereinafter referred as "CHIPL"**) in which the Complainant and Mr. Jeevesh Sabharwal were the Directors with 50% shareholding each till FY 2015-16. The Respondent has done Special Audit to assess the internal control system and financial reporting of CHIPL for the tenure July, 2013 to 15th March, 2016 and submitted his report dated 10th August 2016.

2. Charges in Brief: -

2.1 The Respondent while giving Special Audit Report (**hereinafter referred to as "SAR"**) of CHIPL dated 10th August, 2016 for the period July, 2013 to 15th March, 2016 has knowingly and willfully concealed material facts which the Respondent was under an onerous duty to disclose. Accordingly, as per the Complainant, the Respondent was grossly negligent in discharging his professional duties. The Complainant further stated that the Respondent in his SAR dated 10th August, 2016 has selectively reported only those related party transactions like Ping Media Private Limited with CHIPL in which the Complainant was involved and with malafide intentions, failed to report the other related party transactions in which Mr. Jeevesh Sabharwal and his father were involved.

2.2 The Complainant further alleged that the Respondent did not disclose the basis of opinion for the rates of booking of flats that were fixed by CHIPL and the basis for approval of Board of Directors was required for variation in the rates of flats. In the SAR as submitted by the Respondent, it was mentioned that the Complainant has been involved in the booking of flats on behalf of CHIPL and the Complainant has not taken the approvals of the BOD. Further, CHIPL, in



response to interrogatories served upon it before the Arbitral Tribunal has stated that the booking of the flats was done at a mutually fixed price thus exposing the falsehood which forms the basis of SAR submitted by the Respondent.

3. The relevant issues in the Prima facie opinion dated 24th December 2019 formulated by Director (Discipline) in the matter in brief is given below:-

3.1 Regarding the first allegation: On the perusal of the SAR dated 10th August, 2016 as available on records, it is observed that the Respondent while issuing SAR, which according to him was conducted to assess the internal control and financial reporting of CHIPL has limited his reporting to those related party transactions in which the Complainant was interested like the transactions between CHIPL and M/s Ping Media Private Limited. He further omitted to report the other related party transactions of CHIPL in which Mr. Jeevesh Sabharwal and his father was interested. It gives an impression that the SAR report was not issued independently by the Respondent and it seems that the same was issued to report the particulars of transactions of the Complainant only or in other words he choose not to report the transactions involving other Director of CHIPL.

3.2 Copy of working papers and other relevant records were called from the Respondent as additional documents under Rule 8(5) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 on the basis of which he has issued SAR dated 10th August, 2016 in respect of CHIPL, however, the Respondent has failed to provide any working papers on record and thus, it is viewed that he has adopted a casual approach towards the ongoing disciplinary proceedings against him. It is further noted that engagement letter for appointing the Respondent to conduct the Special Audit of CHIPL for the period July, 2013 to 15th March, 2016 is also not available on record which could have established the scope of Special Audit being conducted by the Respondent and justifying the reporting pattern being adopted by the Respondent which was limited to reporting of the particulars of transactions in which Complainant was interested. Further, it is noted that the Respondent has chosen to remain silent in his Written Statement

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on the loan transactions entered between CHIPL with the parties in which Mr. Jeevesh Sabharwal and his father was interested which raises a doubt on his conduct as alleged by the Complainant.

- 3.3 In light of the facts and reasons given in preceding paras, the misconduct on the part of Respondent is evident on account of incomplete reporting while carrying out the special audit. The grounds/basis to justify the same action either by way of engagement letter or scope of said audit has not been made available by the Respondent. It is noted that the same assumes even more importance when a disciplinary case was initiated against him and accordingly, the Respondent is held prima facie **GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountant Act 1949 with respect to this charge.
- 3.4 As regard the second allegation, the Respondent failed to provide any evidence or working papers and other relevant records to substantiate his observation as mentioned in SAR Report which required the prior approval of Board of Directors for booking of flats at the lower rates than the rates fixed by CHIPL. Moreover, he failed to provide any evidence which would have formed the basis for such an observation that the rate of flats was fixed by the Board of Directors. Further, it is observed on perusal of SAR that the opinion given by the Respondent in said report appears to be one sided and involvement of the Complainant alone was arrived at by him as regard the booking of flats on behalf of CHIPL while giving a peculiar/unsubstantiated comment that the Complainant might have misappropriated the booking money received from the customers and cheated CHIPL. However, it is noted that each transaction of CHIPL required the approval of both Mr. Jeevesh Sabharwal and the Complainant. It is viewed that transactions pertaining to the Complainant have been singled out by the Respondent while giving SAR and nowhere the transactions of other party, Mr. Jeevesh Sabharwal has been reported. The same thus hints upon a biased



approach being adopted by the Respondent in carrying out his professional assignment.

3.5 In light of the facts and reasoning given in above stated paras, the Directorate is of the opinion that one sided approach was adopted by the Respondent which was evident from the Special Audit Report of the CHIPL, as he not only reported those facts in which the Complainant was interested but has also failed to provide any corroborating evidence to support his opinion made in Special Audit Report. Accordingly, it is viewed that the Respondent is prima facie **GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountant Act 1949 with respect to this charge.

3.6 The Director (Discipline) in his Prima Facie Opinion dated 24th December 2019 has held that the Respondent is prima facie GUILTY of Professional and Other Misconduct falling within meaning Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule and to the Chartered Accountants Act, 1949. The said Clause to the Schedule to the Act, states as under:

"Clause (7) of Part I of Second Schedule:

*A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he –
does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"*

"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:-
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."*

3.7 The Prima Facie Opinion formed by Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 16th July 2020. The Committee on

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consideration of the same, concurred with the reasons given against the charge and thus, agreed with the prima facie opinion of the Director (Discipline) that the Respondent is prima facie **GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part – IV of the First 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.

4. Date(s) of Written submissions/pleadings:

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	27 th September, 2017
2.	Written Statement filed by the Respondent	Dated 'Nil' (received on 05 th February, 2018)
3.	Rejoinder filed by the Complainant	27 th March, 2018
4.	Prima facie Opinion by Director (Discipline)	24 th December, 2019
5.	Written Submissions by the Respondent after PFO	12 th December 2023 21 st December 2023 22 nd December 2023

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5. Written submissions filed by the Respondent:

- 5.1 The Committee noted that the Respondent vide his written submissions dated 12th December 2023 submitted that he denied the observation made in para 9.2 to 9.6 of the PFO that the Respondent's conduct raised doubt for not reporting transaction between CHIPL and parties in which Mr. Jeevesh Sabharwal and his father were interested. The scope of the assignment was exclusively to identify those transactions which were undertaken by the Complainant while he was running the affairs of the Company and are suspected of not being in the interest of the other shareholders.
- 5.2 The Respondent further submitted that it was a special assignment for conducting the special audit and to quantify the amount of transactions related/associated with Director, Mr. Suninder Sandha and not for issuing an independent auditor's report on the state of affairs of the Company as a whole, as stated in the Financial Statements. In this regard, the Respondent has brought on record the appointment letter dated 15th July 2016 to conduct the special audit from July 2013 to 15th March 2016.
- 5.3 The Respondent has further stated that he was unable to provide working papers earlier, due to poor handling of documents and improper file management in the office of the Respondent and in view of the increasing age of Respondent.
- 5.4 The Respondent further added that according to the scope of assignment understood by him, it was not necessary to examine or report on the transactions which were not disputed by the management of the Company, which was the reason due to which the related party transactions associated with Director, Mr. Jeevesh Sabharwal, were not reported. The facts contained in the audit report were not questioned by the Complainant, except making some counter allegations that the Respondent was biased. However, there was no biasness for disputing the independence in the opinion of the Respondent.
- 5.5 The Respondent submitted that the observations regarding transactions with M/s Ping Media Pvt Ltd was based on a comparison of invoices with M/s Advert

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Communications Pvt Ltd. The original service provider of advertisement services was M/s Advert Communications Pvt Ltd. The Respondent further added that all the documents were not retained as working papers but sample bills of both the Companies used for comparison which were retained as working papers and brought on record.

- 5.6 The Respondent further submitted that substantial amounts were outstanding and recoverable from persons/entities connected to the Complainant. These facts were not denied by the Complainant. The Respondent attached the copies of ledger statements of the parties. He further added that upon the examination of MOU executed by the Complainant with the buyers, and comparison of the same with documents of allotment of flats, it was reflected that the price fixed by the Board of Directors was not recorded in the said MOU.
- 5.7 The Respondent further brought on record vide his letter dated 21st December 2023, the appointment letter dated 15.07.2016, Board Resolution dated 15.04.2016 and audit working papers which were used as the basis for the observation with respect to loss to the Company on account of sale of properties at lower rates against the Company policy or approval in the special audit report.
- 5.8 The Respondent further brought on record the following documents vide his letter dated 22.12.2023:-
- a. Bills of Advertisement of M/s Ping Media Pvt Ltd and M/s Advert Communications Pvt Ltd
 - b. Comparison charts of both the Companies with regard to Bills of Advertisement
- 5.9 The Respondent further stated that the Company related to the Complainant has no infrastructure; and the Company took the Bills from M/s Advert Communications Pvt. Ltd and then raised its own bill with minor amendments in invoice dates.

6. Brief facts of the Proceedings:

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

 

Particulars	Date of Meeting(s)	Status
1 st time	2 nd May, 2023	Adjourned at the request of the Respondent
2 nd time	16 th October 2023	Part heard and adjourned in the absence of the Complainant.
3 rd time	28 th November, 2023	Adjourned at the request of the Respondent
4 th time	14 th December, 2023	Part Heard and adjourned
5 th time	26 th December 2023	Hearing concluded and decision taken

- 6.2 On the day of the first hearing on 2nd May 2023, the Committee noted that the Respondent has sought extension of time for filing written submissions and the Complainant was also not present. In the absence of the Complainant and in view of request of the Respondent for adjournment, the Committee decided to adjourn the matter to a future date so as to provide one more opportunity to the Complainant and the Respondent to substantiate/defend the charges.
- 6.3 On the day of hearing on 16th October 2023, the Respondent along with Counsel were present through video conferencing mode, however, the Complainant was not present and the same being the first hearing of the case, the Respondent was put on oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges and then the charges against the Respondent as contained in para 2.1 to 2.2 were read out. 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.
- 6.4 On the day of next hearing on 28th November 2023, the Committee noted that the Respondent has sought adjournment. The Committee acceded to the request of the Respondent and adjourned the case to a future date with the directions

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that both the Complainant and Respondent be informed to be present at next meeting. In case of their absence, the case will be decided ex-parte.

6.5 Thereafter, on the day of hearing on 14th December 2023, the Committee noted that the Respondent along-with Counsel were present through Video conferencing mode. The Committee noted that the Complainant was not present and notice of listing of the case has been served upon him, however such notice has been returned back with remarks 'No such person found'. The Committee asked the Counsel for the Respondent to make submissions in the matter. The Counsel for the Respondent submitted that the Respondent had conducted the special audit of the Company. He submitted that the Respondent had been held prima facie guilty by the Director (Discipline) due to the reason that Respondent could not produce appointment letter and or scope of audit and working papers. The Counsel for Respondent produced the letter of appointment on record and other working papers related to special audit assignment. Thereafter, the Counsel for the Respondent made a request that he wished to produce more working papers and requested to provide him 10 days' time for the same. The Committee acceded to the request of the Counsel for the Respondent and adjourned the case to a future date, noting the fact that the Complainant did not appear before it even once in the hearings conducted so far. The Committee accordingly decided to give one last and final opportunity to the Complainant to appear before it and to present his arguments. The Committee further directed the office to inform the Complainant to appear before it at the next meeting, and that notice for the next meeting be hand delivered as an additional mode of communication to his address. In case of his failure to appear, the matter will be decided ex-parte the Complainant, based upon the documents/material available on record. The hearing in the matter was part heard and adjourned.

6.6 Thereafter, on the day of final hearing on 26th December 2023, the Respondent along with his Counsel through video conferencing mode were present and appeared before it. However, the Complainant was not present and the notice for hearing sent to him by post returned back as 'Undelivered'. The Committee



further noted that Complainant had not appeared in any of the hearing so far, and his phone number and email id were not available on records. The Committee noted that pursuant to direction given in the last hearing, the notice for hearing was attempted to be delivered by hand at the Complainant's address, but it was informed that the Complainant is not residing in the said address any more. In view of the same, the Committee decided to proceed ex-parte the Complainant, as ample opportunities have already been provided to the Complainant to appear before it have already been provided. The Counsel for the Respondent submitted that there was an omission on the part of Respondent while filing the documents earlier as the relevant evidentiary documents were not available with the Respondent at that time. The Counsel for the Respondent submitted that it can be seen from the appointment letter that the scope of the special audit was exclusively to identify the related party transactions pertaining to the Complainant. The Counsel for Respondent further submitted that as per appointment letter and the Resolution of Board of Directors, the Respondent being the special auditor was required to quantify the amount of transactions related to the Complainant to examine the instances of undue advantages taken from the Company or its business by the Complainant. The Counsel for Respondent further stated that M/s Ping Media Pvt Ltd is a Company owned by the Complainant's family and M/s Advert Communications Pvt. Ltd. was the Company which was rendering advertisement services to the Company earlier. It was further submitted by the Counsel for the Respondent that the sales of flats at lower prices than the one fixed by Board of Directors was against the interest of the Company. The Committee further noted that the Complainant did not appear in any of the hearings so far and the notice of the meeting returned back undelivered.

7. Findings of the Committee

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

- 7.1 The Committee noted that the Complainant has never attended any hearing in spite of giving advance notices, which have been duly sent. The Committee took

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all the efforts to reach the Complainant on the basis of available details about him. The notice was even sent by hand delivery but the notices sent were undelivered and in fact the Complainant was not found on the address available with the Committee. Further, the Complainant has also not made any further submissions (in lieu of his presence) to substantiate her charges. Therefore, the Committee had no option but to consider the written and oral submissions of the Respondent vis a vis only the charges mentioned in the original Complaint filed by the Complainant.

7.2. As regards the **first allegation**, the Committee observed that the Complainant had alleged that Respondent has reported only those related party transactions with CHIPL in which Complainant was involved. In this regard, the Committee observed that the Respondent has brought on record during the hearing stage the following documents which were not produced earlier:

- a. Appointment letter dated 15.07.2016 and Board Resolution dated 15.04.2016 of the Respondent issued by M/s Concept Horizon Infra Private Limited to conduct the special audit of the Company with respect to the internal control system and financial reporting from July 2013 to 15th March 2016.
- b. Invoices issued by M/s Ping Media Pvt Ltd. with respect to advertisement expenses.
- c. Invoices of M/s Advert Communications Pvt Ltd with respect to advertisement expenses
- d. Comparison chart of both the Companies reflecting the comparison of advertisement expenses of the Company

7.3. The Committee noted the contents of an appointment letter dated 15.07.2016 through which the Respondent was appointed as Special Auditor. The relevant portion of which reads as follows:

"The Board of Directors of the Company in the meeting held on July 15, 2016, have decided to appoint your audit firm as the Special Auditor to quantify the amount of the transactions

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related/associated with erstwhile Director, Mr. Suninder Sandha, to examine instances of undue advantages taken from the Company or its business by the erstwhile Director, Mr. Suninder Sandha, through his decisions as Director, and those transactions that appeared to have resulted in potential losses to the Company. Transactions of sale of booking of flats if any at below market price, transfers of funds to personal and associated Company accounts etc. must be given focus. The terms and remuneration for his engagement will be mutually agreed upon by the Board of Directors of the Company.”

- 7.4. The Committee, while noting the above, observed that the Respondent's appointment specifically indicated about reporting those transactions in his Special Audit Report related to the Complainant. The Committee further noted that the Respondent in his Special Audit Report has mentioned the following:

“We have observed that the company has spent the sum of Rs 248.65 Lac towards advertisement carried out through M/s Ping Media Pvt. Till 15.03.2016 It is also noticed that M / s Ping Media Pvt. Ltd has shown the consolidated amount in the bill raised to the company and the complete detail such as size of the hoardings; rates per hoarding. medium etc have not been given in the Invoices raised. Further the company had not issued any work order for advertisement to the Ping Media Pvt. Ltd and also no quotation was received from the party. On thorough Investigation of the transactions, we are surprised to note that Ping Media Pvt. Ltd became a mediator, company which has just raised the bills whereas the advertisement activities had been carried out by M/s Advert Communications Pvt. Ltd, which was doing the advertisement works for the company from the very beginning. The modus operandi of raising the bills through M/s Ping Media Pvt. Ltd had been

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adopted to cheat the company by enhancing the value of the bills of M/s Advert Communications Pvt. Ltd. This has been done Intentionally by the director Mr. Suninder Sandha with a view to gets the undue benefits/profit from the company and to grab money of the company.

On comparison of the rates, it is observed that M/s Ping Media Pvt. Ltd had straightaway charged the 10% excess or more amounts in the bills as compared to the amount charged by M/s Advert Communications Pvt Ltd. We are informed that M/s Ping Media Pvt Ltd is a related party of Sh. Suninder Sandha (Director of M/s Concept Horizon Infra Pvt Ltd)”

7.5. The Committee observed that the Complainant has not raised any concern or made rebuttal on the observations made by the Respondent in his Special Audit Report dated 10th August 2016 with regard to the insinuation or negative inference drawn against him. But the Complainant has only raised the concern that Respondent has only reported the transactions wherein the Complainant was involved whereas the Respondent has not made any observations or comments upon other Directors of the Company. The Committee further observed that it is evident from the appointment letter dated 15.07.2016 and Resolution of Board of Directors dated 15.04.2016 brought on record by Respondent that he was appointed to conduct the Special Audit to highlight only the transactions in which Complainant was involved and to examine the instances of undue advantages taken from the Company or its business by the Complainant through his decisions as Director. The Committee felt that in the absence of participation of the Complainant in the proceedings before it, the Committee has no option but to rely upon additional documents/evidences brought on record by the Respondent at the hearing stage.

7.6. The Committee noted that the broader issue in the scope of audit is to quantify the amount of transactions which were related /associated with the Complainant. On consideration of above, the Committee is of view that the scope of special audit assigned to Respondent was limited to undertake the task of highlighting

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the transactions of Complainant; and the scope did not warrant the Respondent to undertake audit in respect of overall transactions of the Company including other Directors of the Company. The Committee emphasized the fact that Respondent has undertaken the special audit in line with terms and reference and scope of audit as per the decision taken by the Board of Directors of the Company. In view of same, the Committee opined that such an act on the part of the Respondent does not attract any Professional and Other Misconduct. Therefore, the Committee held the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule of the Chartered Accountant Act 1949.

- 7.7. The Committee considered the **next allegation** related to non-disclosure of basis of his opinion for the rates of booking of flats as mentioned in his Special Audit Report. The Committee noted that the Respondent has stated in the Special Audit Report that the Complainant was involved in accepting the booking of flats at a lower rate, and that the flats had been booked by giving a discount of 20% or more without taking the approval of Board of Directors of the Company. In this regard, relevant portion of Special Audit Report dated 10th August 2016 is reproduced below:

"We have noticed that flats at ORIZZONTE project have been booked at a lower rate than the rates fixed by the company without taking the approvals of the board of directors. The company permits the booking of flats at a discount of 3% of the rates fixed by the board of directors. We have noticed that the flats have also been booked by giving a discount of 20% & more without the consent of the board. However, we have considered the deemed discount of 5% for working out the losses suffered by the company due to booking of the flats at cheaper rate. Thus the company has suffered a loss of Rs 2201.58 Lakh towards the booking of flats much below the acceptable norms of the company. The

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comparison chart showing the differences in respect of those flats where booking was done at lower price is given as under:

Financial Year	Total Area Sold (sq.ft)	Average rate of Booking (rate per sq.ft)	Actual amount of booking Rs (In Lacs)	Rates decided as per the BOD (Rate per sqft)	Amount receivable as per rate fixed by the BOD (after discount of 5%) Rs (In Lacs)	Amount of losses to the Company Rs (In Lacs)
A) 1 BHK, 2 BHK FLATS & STUDIO APARTMENTS						
2013-2014	59975	2565/-	1538.42	Rs 4000/-	2279.05	740.63
2014-2015	92600	3120/-	2889.23	Rs 4200/-	3694.74	805.51
2015-2016	27450	3472/-	952.95	Rs 4400/-	1147.41	194.43
Total	319950		11599.78		12469.7	869.92
B) HOSTEL						
2013-2014	2480	2376/-	58.95	4100	96.60	37.68
2014-2015	9100	3335/-	303.47	4500	389.02	85.55
2015-2016	2200	3017/-	66.37	4500	96.14	29.77
C) RETAIL SHOP						
2014-2015	2173	8541	185.60	10000	206.44	20.84
2015-2016	4875	7639	372.42	11000	509.44	137.02
D) BANQUET						
2015-2016	5500	2970	163.35	6000	313.50	150.15
TOTAL	206353		6530.76		8732.34	2201.58

It is noticed that Mr. Suninder Singh Sandha has been involved in the above bookings on behalf of the Company and he has not taken the approvals of the Board of the Directors. He has also not taken any step for protecting the interest of the Company.”

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- 7.8. The Committee observed that the above details as contained in the Special Audit Report indicated that the Complainant has given higher discount for the sale of flats for ORIZZONTE project without taking the approval of Board of Directors of the Company. The Committee further observed that the Respondent submitted that he examined the Memorandum of Understanding executed by the Complainant with the buyers, and also compared the same with the documents of allotment of flats, which reflected that the prices fixed by the Board of Directors was not finally recorded in the said Memorandum of Understanding which was the basis for making observation in the Special Audit Report. In this regard, the Respondent has brought on record the audit working sheet which was used as the basis for the abovementioned observation. On perusal of same, the Committee observed that policy of the Company was to give 'General Discount' of 5% on every sale of flat however, more than 5% discount was given to the buyers vide Memorandum of Understanding executed by the Complainant, which caused loss to the Company. From the said audit working sheet which was submitted by the Respondent during the hearing stage, it was evident that higher discounts had been given to the buyers without the approval of the Board of Directors. The Committee further noted that Complainant did not appear in any of the hearings and had failed to rebut on these further submissions and documents provided by the Respondent.
- 7.9. On overall consideration of the matter, the Committee is of the view that Respondent has brought on record necessary working papers to justify his opinion as mentioned in his Special audit Report. Further, no efforts taken and no evidence was produced by the Complainant to substantiate the charges. Therefore, the Committee held the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule of Chartered Accountant Act 1949.

Conclusion

- 8.1. In the view of the findings stated in the above paras, and 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 above	Para 7.1 to 7.5 as above	NOT GUILTY - Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule
Para 2.2 as above	Para 7.6 to 7.8 as above	NOT GUILTY - Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule

8.2. 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 Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

9. **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, IAS (RETD)]
GOVERNMENT NOMINEE

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

Sd/-
(CA. MANGESH P KINARE)
MEMBER

DATE : 05/02/2024
PLACE: New Delhi

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इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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