

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (2023-2024)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No. - [PR/336/2019/DD/305/2019/DC/1744/2023]

In the matter of:

Sh. Francis Gomes
A/5/1, Satyen Park, P O Joka,
Kolkata-700104

.....Complainant

Versus

CA. Sanjay Gupta (M. No. 059243)
2/55, Netaji Nagar, Ground Floor,
Kolkata - 700092

.....Respondent

MEMBERS PRESENT: -

- i) CA. Charanjot Singh Nanda, Presiding Officer
- ii) Shri Jugal Kishore Mohapatra, IAS (Retd.) (Government Nominee)
- iii) CA. Gyan Chandra Misra, Member

DATE OF FINAL HEARING : 14-05-2024
PLACE OF FINAL HEARING : New Delhi / Through Video Conferencing

The following people were also present.

Complainant : Shri Francis Gomes (Through VC)
Respondent : CA. Sanjay Gupta (From ICAI Kolkata)
Witness for the Respondent : Mr. Eugene Gonsalves (From ICAI Kolkata)

Sh. Francis Gomes, Kolkata - Vs - CA. Sanjay Gupta (M. No. 059243), Kolkata

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BRIEF OF THE DISCIPLINARY PROCEEDINGS: -

On the day of the final hearing held on 14th May 2024, the Committee noted that the Complainant was present. The Respondent was also present along with his witness. Thereafter, the Complainant, the Respondent and witness for the Respondent were put on oath. On being enquired from the Respondent as to whether he is aware of the charges levelled against him and whether he pleads himself guilty or not, he replied that he is aware of the charges and pleaded himself not guilty. Thereafter, the Respondent made his brief submissions on the allegations. The Committee also posed questions to the Respondent, witness of the Respondent and the Complainant. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.

Brief background of the matter: -

- 1- The Complainant was the Life Member of 'Catholic Association of Bengal' (hereinafter referred to as 'CAB'), he alleged that for five successive years the financial accounts of CAB was audited by the Respondent from FY 2010-11 to 2014-15, and the balance sheet of CAB contained the "created and concocted" figure of Rupees Seventeen Lakhs.

Charges in brief: -

- 2- The Complainant alleged that in the Balance Sheet of CAB for the year ended 31st March 2011, an amount of Rs. 17,00,000/- (Rupees Seventeen Lakh) had been inserted into the Assets side of the Balance Sheet with the narration 'Fixed Deposits - Syndicate Bank (Maturity 24/02/2014)' and also wherein the balancing entry on the Liabilities side, read as "Mother Teresa Corpus Fund - Rs. 10,00,000/-; Mother Teresa Corpus Fund - Rs. 7,00,000/-." He alleged that that it was a case of window dressing as there was no corresponding entry in the receipt and payments account.

This continued for the years 2011-12 to 2014-15 and the Balance Sheets of all these years contained this 'concocted' figure of Rs. 17,00,000/-. The Complainant further alleged that according to the narration in the Balance Sheet of 31st March 2011, though the aforesaid Fixed Deposit was 'maturing' on 24/02/2014 but it was not brought into the books of CAB in F.Y 2013-14. It was however brought into the books finally in F.Y 2015-16 and was shown in the Receipts and Payments Account with the narration "To Term Deposit matured - Rs.17,00,000". The Complainant alleged that for five successive years the financial accounts of CAB were audited by the Respondent from FY 2010-11 to 2014-15 wherein the balance sheet of CAB contained the "created and concocted" figure of Rupees Seventeen Lakhs.

3- SUBMISSIONS OF THE PARTIES: -

It is observed that the Respondent during the course of hearing and also through his written submissions inter-alia made the following submissions in his defense:

3.1 That he was the Statutory Auditor of CAB from FY 2010-11 to 2017-18 and all the accounts of CAB audited by his firm had been unanimously approved all these years by the Executive Committees and the Members in their Annual General Meetings. However, after taking over of the management of CAB by the new team, the CAB had a section of members who were blaming the outgoing office bearers of some procedural lapse, mismanagement etc. and the extant complaint was the outcome of digging the past and unnecessarily raising baseless issues and dragging the auditors in to such matters.

3.2 The witness for the Respondent submitted that the HMT was a one-time event organisation and whatever was the residual amount which they had in organising Mother Teresa celebration, the organising committee decided that the said money, which is leftover, should be utilised for the aid of medical and education for the needy, underprivileged and poor. The CAB is one of the leading organisations of the Archbishop of Calcutta who authorised the use this money in CAB. However, since,

this fixed deposit was in the name of HMT, he could not physically transfer this money to CAB at that time. But that was an understanding that this particular amount will be eventually transferred to CAB.

3.3 The Respondent further submitted that the fixed deposit which was due to mature on 24.02.2014 was auto renewed to 24th Feb 2016 and the interest accruing on that fixed deposit was also being received in the CAB account and it was not received in HMT. He being an auditor of CAB had sought clarification about the same from the then President and against which he also received a response to that effect. He further submitted that HMT had also given a letter to the bank that the amount of interest should be credited to CAB.

4- FINDINGS OF THE COMMITTEES: -

4.1 – On perusal of documents available on record, submission of the Complainant, Respondent and his witness, the Committee noted that present complaint appears to be an outcome of the dispute between the committee members of CAB at different point of time, and the Respondent has been dragged into the dispute for the alleged fixed deposit of Rs. 17 lakhs. As per the statement of the witness of the Respondent, both the entities, CAB and HMT were under control of the Archbishop of Calcutta. It is also pertinent to mention here that primary responsibility of maintaining books of accounts and financial statements is that of the entity / management of the entity only and after preparation of such financial statements, once approved by the Management, the same is submitted to the auditor for his audit report thereon. In the extant matter, it is noted that the Respondent has submitted the copy of letter dated 12th July 2011 through which he enquired about said fixed deposit / corpus fund of Rs. 17 lakhs recorded/disclosed in the Balance Sheet of CAB and also the copy of letter dated 2nd August 2011, wherein he received the response from the then President of CAB and on the basis of such response, the Respondent conducted the audit. Accordingly, it is viewed that the

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Respondent being an auditor has observed due diligence in seeking explanation about the matter from the management of CAB of which he was the auditor and based on the response/ management representation letter received from the then president, he proceeded with the audit. Accordingly, no professional misconduct of being grossly negligent or observing due diligence can be attributed to the Respondent.

5. Conclusion: -

Thus, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

**CA. CHARANJOT SINGH NANDA
(PRESIDING OFFICER)**

Sd/-

**(SHRI JUGAL KISHORE MOHAPATRA, I.A.S.
(RETD.)) (GOVERNMENT NOMINEE)**

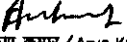
Sd/-

**(CA. GYAN CHANDRA MISRA)
(MEMBER)**

Date: 20.08.2024

Place: New Delhi

सही प्रतिलिपि तैयार की गयी है।
Certified to be true copy


अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वस नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

