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THE HIGH COURT OF DELHI AT NEW DELHI

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CHAT A. REF. No.1/2009

**Reserved on : 21.07.2011
Pronounced on : 04.11.2011**

**COUNCIL OF INSTITUTE OF
CHARTERED ACCOUNTANTS
OF INDIA**

..... PETITIONER

Through: Mr. Rakesh Aggarwal,
Advocate

Versus

PRAVEEN KUMAR KATYAL, FCA & ANR. RESPONDENTS

Through: Nemo

**CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE M.L. MEHTA**

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to the Reporter or not ? | Yes |
| 3. | Whether the judgment should be reported in the Digest ? | Yes |

M.L. MEHTA, J.

1. This reference has been made by Council of Institute of Chartered Accountants of India ("the Council" for short). There were certain complaints made to the petitioner against respondent Praveen Kumar Katyal regarding his professional misconduct. The respondent Praveen Kumar Katyal was called upon by the Council to submit his written submissions as per

Regulation 12(7) of Chartered Accountants Regulations, 1988 ("the Regulations" for short). He submitted his written statement to which rejoinder was submitted by the complainant Dr. Sunila Mehta. The respondent then submitted his comments. The Council considered all these documents and prima facie was of the view that the respondent Praveen Kumar Katyal was guilty of professional misconduct besides other misconducts and decided to hold an inquiry in the matter by the Disciplinary Committee. Consequently, the Disciplinary Committee was constituted which conducted inquiry proceedings and gave its report dated 3.2.2006 holding the respondent Praveen Kumar Katyal guilty of professional misconduct falling within the meaning of Clause 11 of Part-I of First Schedule and also other misconducts under Section 22 read with Section 21 of the Chartered Accountants Act, 1949 ("the Act" for short). The Committee, however, did not find him guilty under Clause 7 of Part-I of II Schedule of the Act. Copy of Disciplinary Committee was forwarded to the complainant Dr. Sunila Mehta as well as to respondent Praveen Kumar Katyal calling upon them to submit written representations, if any and also to appear before the Council, if they so desired. The parties were informed about the date of the meeting of the Council. Both the sides submitted their representations on the report of the Disciplinary Committee. The Council considered the report of the

Disciplinary Committee and also written representations of both sides and decided to accept the report of the Disciplinary Committee and accordingly held respondent Praveen Kumar Katyal guilty on two counts viz. (i) professional misconduct falling within the meaning of Clause 11 of Part-I of First Schedule of the Act, 1949; and (ii) other misconducts under Section 22 read with Section 21 of the Act. In respect of first count, the Council afforded opportunity of hearing to the respondent under Section 21(4) of the Act. The respondent neither appeared nor submitted his representation. On consideration of the matter, the Council ordered the name of the respondent Praveen Kumar Katyal to be removed from the List of Members for a period of 3 months. In respect of second count, the Council decided to recommend to this Court the name of the respondent to be removed from the List of Members for a period of one year. That is how this reference has been made to this Court under Section 21(5) of the Act.

2. The respondent filed counter affidavit and challenged the veracity of the report of the Disciplinary Committee and also the decision of the Council. He also alleged the complainant Dr. Sunila Mehta to be having no *locus standi* to file the complaint inasmuch as she had no professional dealing with him. He also alleged the inquiry report to be vitiated making that no proper opportunity

was ever granted to him to cross examine Dr. Sunila Mehta. With regard to the allegation that he was engaged in other business activities being the Director of some companies, he stated that he was merely a Director and had no role to play in those companies.

3. None appeared for the respondent before us when the matter was listed for final hearing on 21.07.2011. We heard the learned counsel for the petitioner and reserved the matter with liberty given to the respondent to file synopsis of his written submissions, if any. We have waited for considerable time, but no written submissions have been filed by the respondent. We, therefore, have decided to dispose of this reference.

4. The allegations on which the inquiry came to be instituted against the respondent were on the basis of complaint made by Dr. Sunila Mehta whose mother was getting her income tax returns filed through the respondent as his client. The complainant also desired that her first income tax return to be filed through him. The respondent advised her to invest her money with him at the return of 27% per annum as against 14% per annum which the complainant was getting on the investments already made by her. Consequently, she gave him cheques of ₹1 lac and ₹5 lac. The respondent also gave her two post-dated cheques dated 29.5.1997 and 18.6.1997. Both these cheques were signed by him as Director of M/s Dhan Kuber Mutual Benefit

Limited. On presentation these cheques were bounced because of insufficiency of funds. The complainant pursued with the respondent for return of the money, but of no avail. It was also an allegation against him that he did not file the return of the complainant in time on 1.9.1997 despite that all the papers and documents were given to him in March, 1997. The other allegations against him were that being the Director he was running various companies from his office of Chartered Accountant.

5. On receipt of copy of the complaint from the Institute, the respondent submitted his written statement. In his statement before the Disciplinary Committee, the respondent admitted that M/s Dhan Kuber Mutual Benefit Pvt. Ltd. was incorporated in 1995 and he was one of its Directors. The respondent had also admitted that he was the director of other two companies namely M/s Katyal Leasing and Investment Company and Katyal Consultancy Private Limited. He admitted that all these companies are carrying on their businesses from his office. He stated that his wife and father were the other Directors. He admitted that he was authorized signatory of these companies and that these companies were carrying their businesses from his office address. Further in answer to a question asked by the Committee, he admitted that M/s Dhan Kuber Mutual Benefit

Private Limited was promoted by them. He also admitted that he has been signing cheques on behalf of these companies as authorized signatory. Not only this, he also admitted that he was taking decisions on behalf of M/s Katyal Consultancy and was actively involved in this company by attending its Board meetings. In his counter-affidavit also, the respondent admitted himself to be the director of these companies, though he had denied to be having any role in those companies. From the admissions, as made by the respondent before the Committee as noted above, there does not remain any doubt with regard to the fact that the respondent had incorporated these companies and was not only their Director simpliciter, but was actively involved in the decision making affairs of these companies. This was absolutely in violation of Clause 11 of Schedule I of the Regulations and the Committee has rightly found him guilty on this count.

6. With regard to the finding of the Committee about his other misconduct under Section 22 read with Section 21 of the Act, it is noted that respondent nowhere denied about the investments by the complainant amounting to ₹6 lac with M/s Dhan Kuber of which he was the Director. The respondent was provided by the Disciplinary Committee copies of all the documents filed by the complainant. His written statement and representations and also

the comments were duly considered by the Committee. The respondent did not lead any evidence to rebut the allegations leveled against him by the complainant Dr. Sunila Mehta. Not only that the respondent attended the proceedings of the Disciplinary Committee, but was afforded due opportunities to present his case and defend himself.

7. It is seen that the complainant was examined on 5.7.2004 and the respondent was examined on 24.8.2004. The plea that he was not afforded an opportunity to cross examine the complainant is absolutely an afterthought and highly belated inasmuch as the respondent had given his written comments and also representation to the Disciplinary Committee which submitted its report on 03.02.2006. It was only much after that the respondent in his written representation dated 2.3.2006 made to the Council alleged that he was not given an opportunity to examine the complainant. The respondent had been attending the proceedings and never raised any such grievance before the Disciplinary Committee.

8. We have gone through the record and it is seen that the Disciplinary Committee as also the Council followed due procedure as prescribed in Section 21 of the Act. We could not see any reason to find the report of the Inquiry of Disciplinary Committee to be vitiated on any ground.

9. The respondent being a CA was bound by the professional conduct. The respondent in his position as CA of the mother of the complainant for many years, lured the complainant to invest in his company at return of 27% per annum as against 14% per annum which the complainant was getting from her previous investments. In such circumstances, anyone was likely to be lured with such an offer. The respondent by such representations made to the complainant to invest ₹ 6/- lac in his company, accelerated his business activity. He also gave post-dated cheques with interest from his company M/s Dhan Kuber of which he was not only the Director, but authorized signatory. Both these cheques were admitted to be signed by him as Director of this Company. The cheques on presentation got dishonoured because of insufficiency of funds and that would undoubtedly point finger towards the bad intentions of the respondent in making the complainant part with the huge amount of money. This conduct of the respondent would apparently amount to misconduct within the ambit of 'other misconduct' as per Section 22 read with Section 21 (5) of the Act.

10. From all this, we are of the considered view that the Disciplinary Committee was right in holding the respondent guilty of 'other misconduct' as well under Section 22 read with Section 21 of the Act and the Council was right in accepting the report of

the Disciplinary Committee after providing due opportunity of hearing to the respondent. Keeping in view the nature and gravity of the misconduct, we are in agreement with the punishment awarded to the respondent by the Council. Accordingly, the reference made by the Council for removal of respondent Praveen Kumar Katyal from the List of Members for a period of one year is hereby approved. Ordered accordingly.

11. The reference stands disposed of.

**M.L. MEHTA
(JUDGE)**

ACTING CHIEF JUSTICE

November 04, 2011
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