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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: August 09, 2016*

\+ **CHAT.A.REF.6/2011**

COUNCIL OF INSTT OF CHARTERED ACC
OF INDIA .....Petitioner
Represented by: Mr.Rakesh Aggarwal, Advocate with
Mr.Pulkit Aggarwal, Advocate

versus

SANJEEV SHARMA ..... Respondent
Represented by: Ms.Isha Jain, Advocate for R-1

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (ORAL)

1. This is a reference under sub-Section 5 of Section 21 of the Chartered Accountants Act, 1949. The indictment against the respondent is to have taken up the audit of a company, previous auditor whereof was one Sh.B.C.Bothra carrying on practice as a chartered accountant under the name of M/s.B.C.Bothra & Co., without obtaining a written no objection from Sh.B.C.Bothra. Complaint made by Sh.B.C.Bothra was that for the previous years audit conducted by him, auditor fee in sum of ₹35,000/- was outstanding.

2. The respondent claimed before the Disciplinary Committee of the

Institute of Chartered Accountants that he had obtained oral sanction from Sh.B.C.Bothra. During proceedings before the Disciplinary Committee it transpired that Sh.B.C.Bothra had received the outstanding audit fee.

3. When the report of the Disciplinary Committee was sent to the respondent for his comments he stated once again that he took up the audit upon a verbal assurance given by Mr.B.C.Bothra. He highlighted that Mr.B.C.Bothra had since received the outstanding remuneration for the audit conducted for the previous year. The respondent additionally pointed out that he had started his practice in the year 2001. The audit which he had undertaking without written consent of Sh.B.C.Bothra pertained to the year 2002. The respondent highlighted that this was the first assignment of audit undertaken by him.

3. The counsel in its 305 meeting held from 18^{th} to 20^{th} April, 2011, considered the report of the Disciplinary Committee and recommended that the appropriate penalty would be a reprimand.

4. Learned counsel for the respondent urges that even a reprimand, which may not be having any financial repercussion, would be a penalty enough to cast a shadow upon the character and integrity of the respondent. Learned counsel draws our attention to a communication sent by the Institute of Chartered Accountant, wherein on an indictment, letter of caution was issued as the remedial measure.

4. Noting that there is no moral turpitude involved; there is no misadventure involved; the respondent was only one year into practice and the omission is procedural and fairly trivial, we dispose of the reference directing that the counsel would issue a letter of caution to the respondent

concerning the indictment in respect whereof instant reference has been made.

5. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

AUGUST 09, 2016
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