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

+ W.P.(C) 4634/2018

SHRI DASHARTH SINGH TANWAR Petitioner

Through: Mr Abhishek Kumar Rao and Ms
Bhavya Bharti, Advocates.

versus

DISCIPLINARY DIRECTORATE, INSTITUTE
OF CHARTERED ACCOUNTANTS OF INDIA
AND ANR.

..... Respondents

Through: Ms Ruhini Dey, Advocate for R-1.
Mr Shyam Sunder Sharma, Advocate
for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.01.2019

1. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 11.10.2017, whereby the petitioner was informed that the Board of Discipline had concurred with the, *prima facie*, opinion of the Director (Discipline) that respondent no.2 is not guilty of any professional misconduct falling within the meaning of clauses 7, 8 and 9 of part I of the second Schedule to the Chartered Accountants Act, 1949.
2. The petitioner states that he is one of the principal promoters of M/s Zenith Rollers and had also contributed to 45% of the share capital. Apparently, there are disputes between the petitioner and other shareholders. It is the petitioner's case that some of the entries in the balance sheet do not correctly reflect the state of affairs and the accounts have been so drawn up

to prejudice the petitioner (and his group). It is in the aforesaid context, the petitioner had filed a complaint against respondent no.2, who is the statutory auditor of M/s Zenith Roller Limited. The petitioner had also pointed out certain entries in the final accounts, which according to the petitioner were incorrect/manipulated.

3. It is well settled that the primary responsibility for drawing the accounts is on its signatories (directors) and the auditor is required to verify the same from the records. Thus, it is not necessary that the auditor be held responsible for the same. At this stage, the learned counsel appearing for the petitioner seeks to withdraw the present petition while reserving all rights and contentions against the majority shareholders as well as respondent no.2.

4. The petition is dismissed as withdrawn.

5. It is clarified that all rights and contentions of the petitioner are reserved. It is also clarified that this would not preclude the petitioner from instituting independent proceedings against respondent no.2, if so advised.

VIBHU BAKHRU, J

JANUARY 31, 2019

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