$~10

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

\+ W.P.(C) 3802/2024 & CM APPL. 15605/2024

N. NARASIMHAN ..... Petitioner

Through: Mr. K.V. Balakrishnan, Mr. Devesh Khanduri, Advocates.

versus

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA AND ORS. ..... Respondents

Through: Mr. Febin Mathew Varghese, Mr. Dhiraj Philip, Ms. Srishti Agarwaal, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

<u>O R D E R</u>

% **05.04.2024**

1. The Petitioner has approached this Court challenging an Order dated 05.02.2024, passed by the Disciplinary Committee constitute under Section 21B of the Chartered Accountants Act, 1949, holding the Petitioner guilty of misconduct and for violating Clause 5, 7 & 8 of Part – I of the Second Schedule of the Chartered Accountants Act, 1949.

2. It is the case of the Petitioner that the principles of Natural Justice has been violated in the impugned Order. It is also the contention of the Petitioner that the Presiding Officer had first recused himself from the matter, however, he had later on chosen to pass the impugned order. An affidavit of the Counsel for the Petitioner in the Disciplinary proceedings has also been filed to this effect.

3. Section 22G of the Chartered Accountants Act, 1949 provides for an appeal. Section 22G reads as under:

"*22G. Appeal to Authority.—(1) Any member of the Institute aggrieved by any order of the Board of Discipline or the Disciplinary Committee imposing on him any of the penalties referred to in sub-section (3) of section 21A and sub-section (3) of section 21B, may within ninety days from the date on which the order is communicated to him, prefer an appeal to the Authority:*

Provided that the Director (Discipline) may also appeal against the decision of the Board of Discipline or the Disciplinary Committee to the Authority, if so authorised by the Council, within ninety days:

Provided further that the Authority may entertain any such appeal after the expiry of the said period of ninety days, if it is satisfied that there was sufficient cause for not filing the appeal in time.

(2) The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary Committee under sub-section (3) of section 21A and sub-section (3) of section 21B and may—

(a) confirm, modify or set aside the order;

(b) impose any penalty or set aside, reduce, or enhance the penalty imposed by the order;

(c) remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the Authority considers proper in the circumstances of the case; or

(d) pass such other order as the Authority thinks fit: Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing

any order.]"

4. Learned Counsel appearing for the Institute submits that arguments on punishment to be imposed on the Petitioner have been heard and judgment has been reserved.

5. A perusal of Section 22G of the Chartered Accountants Act, 1949 shows that there is an equally efficacious alternate remedy to the Petitioner against the Order passed by the Disciplinary Committee. All the contentions raised by the Petitioner in the present Writ Petition can be agitated by the Petitioner before the Appellate Authority.

6. In view of the fact that an equally efficacious alternate remedy is available to the Petitioner, this Court is not inclined to exercise its Writ jurisdiction at this juncture.

7. Accordingly, the present Writ Petition is disposed of with liberty to the Petitioner to approach the appropriate authority in accordance with law. Pending applications, if any, also stand disposed of.

8. It is made clear that all the rights and contentions of the Petitioner are left open. If and when and as and when the Petitioner approaches the Appellate Authority, the Appellate Authority is directed to consider the appeal of the Petitioner on its own merits uninfluenced by the fact that the present Writ Petition has not been entertained by this Court.

9. It is also made clear that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

APRIL 5, 2024
Rahul