



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

Phone : +91-11-24622156-57-58
Website : www.icmai.in

The Board of Discipline u/s 21A

The Institute of Cost Accountants of India

In the matter of:- Complaint No Com/21-CA(56)/2017

CMA Prashant S Vaze (M/28236)----- Complainant

V/s

CMA Anant Dhavale (M/26573)----- Respondent

ORDER

Dated 15/05/2020

1. A complaint dated 27/11/2017, in Form- I was filed under Section 21 of the Cost Accountants Act, 1959, ("the Act") read with Sub- Rule (1) of Rule 3 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, ("the Rules), by Shri Prashant S Vaze (hereinafter referred to as 'the Complainant'), against Shri Anant Dhavale (M/26573), (hereinafter referred to as 'the Respondent).
2. The Complainant *inter-alia* stated/alleged that:-

CMA Anant Dhavale was Chairman and the member of the Managing Committee of Pune Chapter for the period 2015 to 2017. Some members representing Pune Chapter met Hon. Union Finance Minister Shri Arun Jaitley during a function at Pune on 17th October 2015 and requested him to look into some matters of importance to Professional CMAs. A memorandum signed by CMA Neeraj Joshi, CMA Amit Shahane, CMA Dr. Sanjay Bhargave, CMA D V Joshi, CMA N K Nimkar, as representatives of ICAI Pune Chapter was handed over to Hon. Minister. CMA Anant Dhavale being Chairman of Pune Chapter should have known that such representation is contravening Chapter Bye- Law 16(4) of 2013. His circulation of email attached in annexure A was clear indication of his consent for the same and violation of CWA Act Rules & regulations. Chapter Bye-Law 16(4) of 2013 clearly states that the Managing Committee or any member of Chapter shall at no time make any direct or indirect communication with the Central Government or any of the State Government or any Statutory Authority unless the same is specifically authorized by the Council in writing. Above Act of CMA Anant Dhavale was a clear violation the Chapter Bye Laws 16(4) of the Cost



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Accountant's Chapter Bye Laws, 2013 which were in force on 17th October 2015. This act of CMA Anant Dhavale is perfect case of professional misconduct under CWA Act & Rules, Regulations. This is a clear case of professional and other misconduct under – Second Schedule Part II, Professional misconduct in relation to members of Institute generally, clause (I).

In support of the complaint, the complainant had annexed the following evidences:

Annexure A : Email from CMA Anant Dhavale, the then Chairman Pune Chapter dated 17th October 2015 which clearly mention about the communication with the Central Government Minister and handing over of signed memorandum to the Union Finance minister by the above mentioned representative of Pune Chapter.

Annexure B: - Copy of the memorandum signed by above mentioned members submitted to Union Finance Minister.

3. The respondent was intimated vide letter dated 07th December, 2017 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.
4. The respondent vide his letter dated 02nd January, 2018 denied the allegations made against him and stated inter alia as below:-
 - i) *The complaint filed by CMA Prashant Vaze is totally frivolous, is under mistake of facts and mistake of Law and based on personal grounds and enmity.*
 - ii) *The instance quoted by the complainant CMA Prashant Vaze dates back to October 2015 whereas CMA Vaze has lodged the complaint in November, 2017 i.e. after a gap of more than 2 years.*
 - iii) *It is very common that Union Ministers, State Ministers, Government Authorities attend various seminars and functions arranged by Chapters in the capacity of Chief Guest of Honour. Often representations are submitted to them by Chapters. These representations mainly contain the details of Institute, Strengths of CMA profession and request to enhance statutory recognition to CMA profession. If the act of meeting Hon. Finance Minister and signing the representation submitted to him is a professional misconduct then action need to be taken against every member, RCM and CCM and members of the chapters.*
 - iv) *At the relevant point of time he was the Chairman of ICAI- Pune Chapter. He had received a call from CMA Amit Apte, Central Council Member, who informed regarding the programme organized by Pune Unit of Bharatiya Janata Party "Interaction with Hon. Shri Arun Jaitley" Union Minister of Finance. CMA Amit Apte, CCM requested him to attend the said programme along with some office bearers and senior members of the profession. CMA Amit Apte also advised him to prepare a small memorandum of important issues concerning our profession and present the*



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same to the Honourable Minister. Since he was not able to attend the programme himself he requested some of them had the invitation for the said secession. Accordingly in consultation with CMA Amit Apte, CCM and based on request and guidance from him and some other senior members the memorandum was prepared and was signed by the persons who could attend the said programme.

- v) *The contents of the Memorandum are fully supportive to the members of our Institute. As per his knowledge understanding all Chapters, Regions, Head Quarters and the elected representatives at Chapter level, Regional level and Central Council Level are making such kind of representations to the Dignitaries in the interest of the profession. When such advice is received from sitting Central Council Member, as an elected representative he has duty bound to act and accordingly the actions were taken by him.*
 - vi) *Considering the above facts and the fact that he was acting as per the request of CMA Amit Apte Central Council Member there is no contravention of Chapter Bye-Law 16(4) of 2013 as alleged by the Complainant.*
5. The Respondent further stated that in view of the above, in the instant case, there is no professional or other misconduct. He had not contravened any provisions of the CWA Act or Regulation and therefore the complaint filed by CMA Shri Prashant Vaze needs to be dismissed. Under the circumstances he requested to dismiss the complaint filed by CMA Shri. Prashant Vaze and refrain from initiating any proceedings against him. He also requested to grant him an opportunity of personal hearing before the case is finally decided. He reserved his right to add/amend/alter/amplify/delete any one or more grounds stated here-in-before.
6. The written statement of the respondent was sent to the complainant vide letter dated on 09th January, 2018 for sending rejoinder on the same.
7. In rejoinder dated 25th February, 2018 Shri Prashant S. Vaze had submitted inter alia that:-
- i) *In his reply CMA Anant Dhavale has mentioned that he received a call from CMA Amit Apte, Central Council Member, who informed him regarding the program organized by Pune Unit of Bharatiya Janata party and requested CMA Anant Dhavale to attend the same along with the office bearers of Pune Chapter and submit the memorandum on Pune Chapter's Letter Head to the Union Finance Minister, concerning the important issues of the profession. Accordingly CMA Anant Dhavale along with some other members met Union Finance Minister on 17th October 2015 and submitted the memorandum.*
 - ii) *Thus he himself has agreed to the fact that he has contravened the Chapter Bye-Law 16 (4) of 2013 (In force at that point of time) which clearly states that the Managing Committee or any member of Chapter Shall at no time make any direct or indirect communication with the Central Government or any of the State Government or any Statutory Authority unless the same is specifically authorized by the Council in writing.*



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- iii) *He had also attached a letter from CCM CMA Amit Apte which states that he had requested the members of Managing Committee of Pune Chapter to attend the function wherein Union Finance Minister was present, as he (CCM CMA Amit Apte) was out of town.*
- iv) *In the first instance it should be noted that such letter has no locus standi as such because Chapter Bye-Law 16(4) of 2013 clearly states that the Managing Committee or any member of Chapter shall at no time make any direct or indirect communication with the Central Government or any of the State Government or any Statutory Authority unless the same is specifically authorized by the Council in Writing by the Council along with the letter.*
- v) *It should be further noted that the date of incidence and the date of complaint have no relevance. Hence this becomes a clear cut case of violation of Chapter Bye Laws.*
- vi) *In view of the above, he requested the Disciplinary Directorate to take action against CMA Anant Dhavale for violating Chapter Bye- Law 16(4) of 2013, as per the existing provisions of the CWA Act and Regulations.*

8. The Director (Discipline) vide his prima- facie opinion dated 17/08/2019 stated that on perusal of the Complaint, written statement and rejoinder of both the parties, Director (Discipline) observed that although the action of the respondent was not as per the Chapter Bye Laws but it is very common that Union Ministers, State Ministers, Government Authorities attend various seminars and functions arranged by Chapters in the capacity of Chief Guest of Honour. Often representations are submitted to them by Chapters. These representations mainly contain the details of Institute, Strengths of CMA profession and request to enhance statutory recognition to CMA profession. In this case also the letter submitted to hon'ble minister Shri Aun Jaitley was indicative of various important issues concerning the profession on which efforts are being made by the Council, Regional Councils, Chapters etc. and which are in the interest of the profession. A brief note on the role of Cost Accountants in various tax laws and other areas and scope of CMA profession was handed over to Hon. Minister. Further, it contains the areas where cost accountants can help the exchequers and society at large. The contents of the Memorandum are fully supportive to the CMA profession. The note does not contain any specific area which will result in personal gain to the signatories to the note. Hence held the Respondent prima facie "Not Guilty" of professional or other misconduct under any of the items of First and/or Second Schedule to the Act.
9. The Board of Discipline perused that though the action of the respondent was in good faith and for the interest of the profession and as per the advice of the Central Council Member, who was also Executive Committee Member of the Institute, it is not desirable that the Managing Committee or any member of the Chapter make any direct or indirect communication with the Central Govt. or any Statutory Authority unless the same is specifically authorized by the Council (Presently President) in writing. The matter was



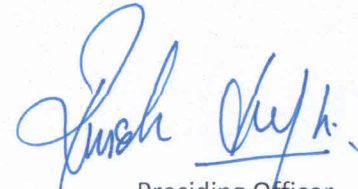
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discussed at length and after discussion, the Board decided that the respondent is to be cautioned.

Accordingly, the complaint stands disposed off.


Presiding Officer