IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment delivered on: 20.11.2024*

\+ **CHAT A. REFERENCE CASE NO. 2 OF 2019**

THE CHARTERED ACCOUNTANTS ACT, 1949
[PRIOR TO AMENDMENT ACT, 2006

AND

RECOMMENDATION OF THE COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA IN ITS 374TH MEETING OF THE COUNCIL HELD FROM 21ST TO 24TH MARCH, 2018 AT NEW DELHI]

AND

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA ..... Petitioner

versus

CA SHRI SUBHAJIT SAHOO & ANR .... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Aldanish Rein, Advocate

For the Respondents : Mr. Deep Bisht and Mr. Sarthak Gupta, Advocates for R-1.
Mr. Asheesh Jain, CGSC, Mr. Gaurav Kumar, and Ms. Pooja Bhardwaj, Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. This reference has been made under Section 21(5) of the Chartered Accountants Act, 1949 (prior to the Amendment Act, 2006) [hereafter '***the Act***'] by which the Council of Institute of Chartered Accountants of India [hereafter '***the Council***'] has forwarded the case to this Court after finding the respondent no. 1, Chartered Accountant (CA) Sh. Subhajit Sahoo, who is the member of Institute of Chartered Accountants of India [hereafter '***ICAI***'], guilty of professional misconduct falling within the meaning of clause (7) of Part-1 of Second Schedule to the Act, and has recommended the removal of his name from the Register of Members of the ICAI for a period of one year.

FACTUAL BACKGROUND

2. The present reference emanates from a complaint filed on 29.11.2005 by the Additional Development Commissioner (Handicrafts), Government of India, Ministry of Textiles, R.K. Puram, New Delhi [hereafter '***the complainant***'] against the respondent no. 1.

3. The complainant alleged that it had sanctioned a loan of ₹11,18,000/- to one M/s Maokot Handloom & Handicrafts Cooperative Society Ltd., Churachandpur, Manipur [hereafter '***the Society***']. It had also released a sum of ₹6,84,000/- as the first instalment in advance to enable the Society to conduct capacity building-cum-training programme at Common Facility Centre, Imphal, Manipur. In this regard, the Society, on 29.11.2003, had submitted an undated Utilisation Certificate, issued by respondent

no. 1 for expenditure of ₹6,84,000/-. On 15.03.2004, an officer of the complainant's office had inspected the activities of the Society and had found that the Additional Essential Machinery of only ₹41,000/- had been procured by the Society, as against claimed expenditure of ₹2,50,000/-. The Society could not explain the reason for this variation. Thereafter, the Society submitted an updated statement of expenditure *vide* letter dated 15.04.2004, along with another Utilisation Certificate dated 28.01.2004 for ₹9,02,500/-, issued by respondent no. 1. However, this Certificate reflected the expenditure incurred on Additional Essential Machinery as ₹41,000/-. It was thus alleged that this certificate appeared to be a back-dated certificate since it reflected the expenditure incurred on Additional Essential Machinery as was detected during the inspection conducted on 15.03.2004. Upon enquiry, the respondent no. 1, by way of letter dated 27.11.2004, informed that the Utilisation Certificate dated 28.01.2004 supersedes the other certificates signed by him earlier; however, no reasons for such supersession were furnished. Therefore, it was alleged that since the expenditure of ₹2,50,000/- on procurement of Additional Essential Machinery was already verified and certified by respondent no. 1, the downward revision in the same expenditure to ₹41,000/- by way of another certificate appeared to be inappropriate.

4. A copy of the complaint was forwarded to respondent no. 1 on 22.02.2006 with a request to send a written statement, if any, as required under Regulation 12(6) of the Chartered Accountants

Regulations, 1988 [hereafter '***the Regulations***']. Respondent no. 1 submitted his written statement on 20.03.2006. The complainant submitted his rejoinder on 03.10.2006. Thereafter, respondent no. 1 submitted his comments on 30.10.2006.

5. In accordance with Regulation 12(11) of the Regulations, the aforementioned documents were considered by the Council at its meeting held on 10.01.2008 and 12.01.2008 at New Delhi. The Council was *prima facie* of the opinion that respondent no. 1 was guilty of professional and/or other misconduct and therefore, the matter was referred to the Disciplinary Committee for inquiry.

6. The effective hearing before the Disciplinary Committee took place on 08.04.2008, in presence of the complainant's representatives, and of respondent no. 1, his counsel and two witnesses. The respondent no. 1 did not plead guilty and opted to defend his case. The witnesses namely Ms. Prabha Mohanty and Mr. G.K. Asthana were examined before the Disciplinary Committee. Both the parties were directed to submit their written submissions, and the hearing was concluded. The Disciplinary Committee submitted its report on 05.12.2008, finding respondent no. 1 guilty of professional misconduct under clause (7) of Part I of the Second Schedule under Section 22 read with Section 21 of the Act.

7. A copy of the report of the Disciplinary Committee was forwarded to the parties and they were informed that the report would be considered at an upcoming meeting of the Council. The respondent no. 1 was also asked to submit a written representation, if

any. The respondent no. 1 submitted two representations dated 30.03.2009 and 15.04.2009 in this regard. The report of the Disciplinary Committee was placed for consideration before the Council at its Meeting held on 17.04.2009 to 19.04.2009 at New Delhi. Considering that some additional documents had been submitted by respondent no. 1, the Council referred the matter back to the Disciplinary Committee for further inquiry, which was communicated to the parties on 26.06.2009.

8. On the Council's reference, the Disciplinary Committee again initiated the enquiry on 07.03.2013. On 02.04.2013, the hearing took place in the presence of the complainant's representative as well as respondent no. 1 and his counsel. Both the parties were examined by the Disciplinary Committee and the hearing was concluded. On 02.05.2013, the Disciplinary Committee submitted its report, again opining that respondent no. 1 was guilty of professional misconduct under clause (7) of Part I of the Second Schedule to the Act.

9. The aforesaid report was forwarded to the parties on 17.05.2013, with a notice that the report would be considered by the Council in its upcoming meeting. The respondent no. 1 submitted his written representation on 27.05.2013, however, he did not appear before the Council. On the other hand, the complainant's authorized representative made oral submissions. After considering the Disciplinary Committee's report dated 02.05.2013, written representation submitted by the respondent no. 1 and the oral submissions made on behalf of the complainant, the Council, in its

meeting held from 01.06.2013 to 03.06.2013, concluded that the respondent no. 1 was guilty of professional misconduct under the Act and recommended that his name be removed from the Register of Members for a period of one year.

10. In accordance with Section 21(5) of the Act, a reference i.e. *Chat A. Ref. No. 8/2014* was made before this Court. However, this Court, by way of order dated 25.07.2017, quashed the Council's decision and directed the Council to reconsider the Disciplinary Committee's report in its next meeting, after giving an opportunity of hearing to both the sides. The relevant extract of the order dated 25.07.2017 is reproduced hereunder:

> "3. In other words, if the number of members comprised in the Council are 40 and in this case, 14 members were present but one of them, namely Shri. J. Venkateshwarlu, did not participate in the said proceedings since he was a part of the Disciplinary Committee, 1/3rd of the 40 members on a percentage-wise basis would come to 13.33% and going by the practice followed by the petitioner, 14 members would have been required to be present to complete the quorum, whereas the members present on 02.06.2013, were 13.
>
> 4. In view of the aforesaid position, it is deemed appropriate to quash and set aside the decision of the petitioner/Council in relation to the respondent as taken on 02.06.2013. Further, it is directed that in its next meeting, the Council shall consider the report of the Disciplinary Committee afresh after affording an opportunity of hearing to both sides along with the written representation received from the respondent and thereafter take a decision in accordance with law, with intimation to the respondent.
>
> 6. The petition is disposed of."

11. In compliance thereof, the Council informed both the parties that the Disciplinary Committee's report, along with any written

representations, would be reconsidered afresh, and the parties were again requested to submit written representations, if any, and also appear before the Council, either in person or through a duly authorized representative, to make oral submissions. The respondent no. 1 submitted written representations dated 01.11.2017 and 15.03.2018, and his authorized representative, CA Ashish Makhija, appeared before the Council to advance oral submissions.

12. The Council, in its meeting held from 21.03.2018 to 24.03.2018 at New Delhi, accepted the conclusion of the Disciplinary Committee, and held that the respondent no. 1 was guilty of professional misconduct falling within the meaning of clause (7) of Part I of the Second Schedule to the Act. The Council further recommended that respondent no. 1's name be removed from the Register of Members for a period of one year. The relevant portion of the decision of the Council is set out below:

> " The Council upon consideration of the Report of the Disciplinary Committee dated 2nd May, 2013 read with earlier Report dated 5th December, 2008 and also the oral submissions made by the Respondent and his Counsel before it, decided to accept the conclusion of the Disciplinary Committee holding the Respondent Guilty of Professional Misconduct falling within the meaning of clause (7) of Part I of the Second Schedule to Chartered Accountants Act, 1949.
>
> Further, the Council also decided to recommend to the Hon'ble High Court that the name of the Respondent CA. Subhajjt Sahoo (M. No. 057426) be removed from the Register of Members for a period of 01 (one) Year."

13. In this background, the Council has made the present reference to this Court seeking an appropriate order under Section 21(6) of the

Act.

SUBMISSIONS BEFORE THIS COURT

Submissions on Behalf of the Council

14. The learned counsel appearing on behalf of the Council argued that the report of the Disciplinary Committee and the recommendation made by the Council are well-reasoned, based on appreciation of the facts and evidence.

15. Referring to the findings of the Disciplinary Committee, upheld by the Council, the learned counsel contended that the respondent no. 1 was negligent in carrying out his professional duties as he had issued the two Utilisation Certificates without verifying the relevant documents. In respect of the first such certificate, it is stated that the respondent no. 1 had failed to verify the machinery physically before issuing the certificate, which he ought to have done. Rather, he had simply relied on the certificate issued by another Chartered Accountant firm without mentioning the said fact in the certificate. As regards the second certificate, it is stated that the respondent no. 1 had failed to place on record any document whatsoever which he had verified before issuing the said certificate.

16. Insofar as the standard of proof to be followed while holding a person guilty of professional misconduct under the Act is concerned, the learned counsel contended that the same may be slightly higher than balance of probabilities (as required in civil cases) but it would not reach the standard of proof required in criminal prosecutions.

Submissions on Behalf of the Respondent No. 1

17. The learned counsel appearing on behalf of respondent no. 1 argued that the findings returned by the Council demonstrate complete non-application of mind, and that the same is evident from the fact that this Court, *vide* order dated 25.07.2017 in *Chat A. Ref. No. 8/2014*, had set aside the Council's earlier decision taken on 02.06.2013 and had specifically instructed the Council to re-evaluate the Disciplinary Committee's report afresh, after affording a fair hearing to both the sides. However, the Council has failed to comply with the directions of this Court, as paragraph nos. 15 to 19 of the findings dated 22.03.2018 are verbatim reproductions of paragraph nos. 13 to 17 of the earlier findings dated 02.06.2013. Therefore, it was argued that the Council, in effect, did not re-evaluate the matter or consider the respondent no. 1's submissions.

18. It was further contended that the Council has overlooked key documents that substantiate the actions of respondent no. 1. These include receipts and accounts certified by M/s MKM Associates and countersigned by the Society's Secretary, bank statements showing a payment of ₹2,50,000/- for Additional Essential Machinery, Form ST35 (a road permit for transporting machinery into Manipur), and letters dated 12.11.2003 and 29.11.2003 from relevant officials of the Society. These documents confirm that the first Utilization Certificate, issued by respondent no. 1, was based on valid documentation showing ₹6,84,000/- spent, including ₹2,50,000/- on Additional Essential Machinery.

19. In relation to the second Utilization Certificate, respondent no. 1 contended that the Council disregarded a letter from Mr. Amang Haokip (Secretary of the Society) to Mr. G.K. Asthana (Deputy Director), explaining the reduced expenditure of ₹41,000/- on additional machinery, down from ₹2,50,000/-. This adjustment resulted from an inability to use most of the machinery due to inadequate technical expertise and lack of electricity. Despite this explanation, the Council failed to acknowledge these factors in its findings.

20. Furthermore, the learned counsel for respondent no. 1 contended that the Council's adverse finding rests solely on assumptions, including that the second Utilization Certificate, dated 28.01.2004, was submitted late by the Society in March 2004, after an inspection report indicated unsatisfactory operations. However, the delay and decision to procure or return machinery were entirely the Society's responsibility, not respondent no. 1's. Additionally, no action has been taken against the Society itself.

21. It was also contended that it is a settled position of law that the disciplinary enquiries relating to professional misconduct are quasi criminal in nature inasmuch as such proceedings may affect the professional's right to practice the profession. In other words, being quasi criminal cases, such cases ought to be proved beyond reasonable doubt and the onus to prove lies on the complainant. The evidence should be of a character which should leave no reasonable doubt about the guilt of the professional. In this regard, reliance is

placed on certain case laws.

22. The learned counsel for the respondent no. 1 further argued that the Council failed to consider that the Disciplinary Committee had conducted its inquiry in gross violation of principles of natural justice and denied him the right to fair trial. It is submitted that the respondent no. 1 had repeatedly requested for calling Mr. M.K Maheshwari (being the chartered accountant who had initially certified Receipts and Payments Accounts) and Mr. Amang Haokip (being the Secretary of the Complainant Society) as a witness during both the enquiries before the Disciplinary Committee conducted in 2008 as well as on 02.04.2013. However, his request was not accepted.

23. Therefore, it is prayed that the recommendations of the Council be quashed and the present reference by the Council be dismissed.

ANALYSIS & FINDINGS

24. The issue which arises for this Court's consideration is whether, on the basis of the material available on record, the petitioner has been rightly held guilty of professional misconduct, as covered under clause (7) of Part I of the Second Schedule to the Act, and whether an order from this Court under Section 21(6) of the Act is merited.

25. Before appreciating the rival contentions, it shall be apposite to take note of Section 21 of the Act (*as it stood prior to the amendment*

dated 17.11.2006), which provided the 'Procedure in inquiries relating to misconduct of members of Institute'. The said provision is extracted hereunder:

> "**21. Procedure in inquiries relating to misconduct of members of Institute**:
>
> (1) Where on receipt of information by, or of a complaint made to it, the Council is prima facie of opinion that any member of the Institute has been guilty of any professional or other misconduct, the Council shall refer the case to the Disciplinary Committee, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be prescribed, and shall report the result of its inquiry to the Council.
>
> (2) If on receipt of such report the Council finds that the member of the Institute is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed or the complaint shall be dismissed, as the case may be.
>
> (3) If on receipt of such report the Council finds that the member of the Institute is guilty of any professional or other misconduct, it shall record a finding accordingly and shall proceed in the manner laid down in the succeeding sub-sections.
>
> (4) Where the finding is that a member of the Institute has been guilty of a professional misconduct specified in the First Schedule, the Council shall afford to the member an opportunity of being heard before orders are passed against him on the case, and may thereafter make any of the following orders, namely :-
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> (a) reprimand the member;
>
> (b) remove the name of the member from the Register for such period, not exceeding five years, as the Council thinks fit;
>
> Provided that where it appears to the Council that the case is one in which the name of the member ought to be removed from the Register for a period exceeding five years or permanently, it shall not make any order referred to in clause (a) or clause (b), but shall forward the case to the High Court with its recommendations thereon.
>
> (5) Where the misconduct in respect of which the Council has

found any member of the Institute guilty is misconduct other than any such misconduct as is referred to in sub-section (4), it shall forward the case to the High Court with its recommendations thereon.

(6) On receipt of any case under sub-section (4) or sub-section (5), the High Court shall fix a date for the hearing of the case and shall cause notice of the date so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard, and may there- after make any of the following orders, namely:-

(a) direct that the proceeding be filed, or dismiss the complaint, as the case may be;

(b) reprimand the member;

(c) remove him from membership of the Institute either permanently or for such period as the High Court thinks fit;

(d) refer the case to the Council for further inquiry and report."

26. Section 22 of the Act defines 'professional misconduct'. The same is extracted hereunder:

"22. Professional misconduct defined:- For the purpose of this Act, the expression "professional misconduct" shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Council under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances."

27. In ***Institute of Chartered Accountants of India v. S.K. Jain***, *2000 SCC OnLine Del 808,* the Coordinate Bench of this Court, while dealing with 'professional misconduct' under Section 22 of the Act, observed as follows:

"... "Professional misconduct" has been defined in Section 22

> of the Act. Intendment and object of the Act is to maintain standard of the profession at a high level, and consequently a code of conduct has been prescribed. Misconduct implies failure to act honestly and reasonable either according to the ordinary and normal standard, or according to the standard of a particular profession. Authenticity and sanctity is attached to certification done by a Chartered Accountant. Hallmark of the profession is the expertise possessed by its members, in the matters of accountancy and auditing amongst others. Correctness is a matter of rule in a certificate issued by a Chartered Accountant. He is supposed to have tested correctness of the figures certified. If he puts his signature, without proper verification, in any certificate, it certainly is a serious matter. Such conduct does not befit a Chartered Accountant, and is unbecoming of him. In such a case, he fails to do what is the minimum required to be done by him. He does something in the pursuit of his profession which is not only unethical, but also disgraceful or dishonourable..."

28. Since the respondent no. 1 has been found guilty of professional misconduct falling within the meaning of clause (7) of Part-I of the Second Schedule to the Act, the said clause (*as it stood prior to the amendment dated 17.11.2006*) is extracted below:

> **THE SECOND SCHEDULE**
>
> **PART I : Professional misconduct in relation to chartered accountants in practice**
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> A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he–
>
> * * *
>
> (7) is grossly negligent in the conduct of his professional duties;

29. A perusal of clause (7), as set out above, clearly indicates that a chartered accountant can be held guilty of professional misconduct if he is 'grossly negligent' in conduct of his professional duties.

30. In Black's Law Dictionary [10th Edition], the terms

'negligence' and 'gross negligence' have been defined in the following manner:

> "**negligence,** *n.* (14c) **1.** The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregardful of others' rights; the doing of what a reasonable and prudent person would not do under the particular circumstances, or the failure to do what such a person would do under the circumstances…
>
> **gross negligence.** (16c) **1.** A lack of even slight diligence or care. ● The difference between *gross negligence* and *ordinary negligence* is one of degree and not of quality. Gross negligence is traditionally said to be the omission of even such diligence as habitually careless and inattentive people do actually exercise in avoiding danger to their own person or property. – Also termed *willful and wanton misconduct*. **2.** A conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences to another party, who may typically recover exemplary damages. – Also termed *reckless negligence; wanton negligence; willful negligence; willful and wanton negligence; willful and wanton misconduct; hazardous negligence; magna neglegentia.*"

31. In P. Ramanatha Aiyar's Advanced Law Lexicon [5th Edition, Vol. 3], the expressions 'negligence' as well as 'gross negligence' have been explained in the following manner:

> "**Negligence.** Failure to use the care that a reasonable and prudent person would have used under the same or similar circumstances.
>
> Negligence in law signifies a coming short of the performance of duty.
>
> Failure to use the care that a reasonably prudent and careful person would use under similar circumstances.
>
> Negligence is "the absence of proper care, caution and diligence; of such care, caution and diligence, as under the circumstances reasonable and ordinary prudence would require

to be exercised.

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Gross negligence, sometimes called wilful blindness is the same thing as negligence, with the additional of a vituperative epithet.

The term gross neglect means and involves a failure on the part of a person to take such reasonable precautions against the risk of an innocent person being deceived in the circumstances of the particular case.

Gross negligence means some culpable default, not arising merely from want of foresight or mistake of judgment.

Negligence marked by total or nearly total disregard for the rights of others and by total or nearly total indifference to the consequences of an act.

For an act of negligence to constitute gross negligence, it must be in reckless disregard of a legal duty and of the consequences to another party, or wilful or voluntary or wanton omission. Negligence is the failure to take reasonable care as an ordinary prudent man, depending upon the circumstances of the case, would take."

32. Coordinate Bench of this Court in case of ***Institute of Chartered Accountants of India, New Delhi v. B.L. Khanna & Anr.,*** *2000 SCC OnLine Del 674*, had the occasion to explain the scope of clause (7) and the meaning of 'gross negligence'. It was held that whether the professional was grossly negligent or not would depend on the fact whether he had applied his mind diligently to the job entrusted to him, and whether due care and caution, as is required to be adopted, was taken. Additionally, it should also be seen whether there was failure to act honestly or reasonably. It was also observed that "when a Chartered Accountant signs certificates, minimum that is expected to do is to verify the accuracy of the figures certified." The relevant portion of the said decision is reproduced hereunder:

"6. As noted above, respondent has not been found to have contravened Clause (6), but Clause (7). Latter clause relates to grossly negligent action in the conduct of professional duties. **On the background facts, it has to be seen whether failure of respondent to notice the mistake would constitute an act of negligence. It depends upon the fact whether the concerned person had applied his mind diligently to the job entrusted to him, and whether due care and caution, as is required to be adopted, was taken.** Respondent took the stand that by mistake CIF value was typed out instead of FOB value. **When a certificate is given, arithmetical accuracy has to be ensured. That is the minimum requirement to be done by a Chartered Accountant. The test, according to us, is whether in addition to the failure to do the duty, there was failure to act honestly and reasonably. Word 'negligence' is associated in the provision with the word 'misconduct' and involves some element of moral culpability.** Mere imprudence or want of judgment or grave error in judgment is not enough. **Misconduct implies failure to act honestly and reasonably either according to the ordinary and natural standard or according to the standard of a particular profession.** But error or misinterpretation of law and specially one view or another over a debatable construction cannot be ground for the allegation and finding of professional misconduct against a Chartered Accountant. Negligence is the omission to do something which a reasonable man, guided upon those considerations, which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do. It is not absolute or intrinsic, but relative to some circumstances of time, place or persons, imposing a duty to take care. **In dealing with matters of professional propriety, one cannot ignore the fact that the profession of chartered accountancy occupies the place of nobility, pride and honour and is a profession of trust expertise in the field of accounting and auditing is the hallmark of Chartered Accountant's profession. When a Chartered Accountant signs certificates, minimum that is expected to do is to verify the accuracy of the figures certified. As part of his professional duty and responsibility, he was required to take reasonable steps to satisfy himself that the figures were correct. Elementary verification would have been sufficient to notice the mistake. Failure to carry out such elementary verification amounts to gross negligence and carelessness. Skill, care and caution, which a reasonably competent and cautious**

> **auditor was expected to exercise, was not done.** Lack of it has affected veracity of his competence. The intendment and object of the Act is to maintain the standard of the profession at a high level.
>
> (Emphasis supplied)

33. In ***B.L. Khanna*** *(supra)*, this Court had also referred to the observations of Lopes L.J. in ***Re. Kingston Cotton Mill Co.,*** *1896-2 Ch. 279*, in respect of the duties of an auditor. The same is set out below:

> "7. In Re. Kingston Cotton Mill Co., 1896-2 Ch. 279, Lopes L.J. observed:
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> > "……..It is the duty of an auditor to bring to bear on the work he has to perform that skill and care and caution which a reasonably competent, careful, and cautious auditor would use, what is reasonable skill, care, and caution must depend on the particular circumstances of each case. An auditor is not bound to be a detective, or, as was said, to approach his work with suspicion or with a foregone conclusion that there is something wrong. He is a watch-dog, but not a bloodhound…. If there is anything calculated to excite suspicion he should probe it to the bottom; but in the absence of anything of that mind he is only bound to be reasonably cautious and careful."

34. The duties and responsibilities of an auditor were also emphasized by the Hon'ble Supreme Court in ***Institute of Chartered Accountants of India v. P.K. Mukherjee & Anr.,*** *1968 SCC OnLine SC 224*, wherein it was observed as under:

> "6. ... In *London Oil Storage Co. Ltd. v. Seear, Hasluck & Co.* Lord Alverstone stated as follows
>
> > "He must exercise such reasonable care as would satisfy a man that the accounts are genuine, assuming that there is nothing to arouse his suspicion of honesty and if he does that he fulfils his duty; if his suspicion is aroused, his duty is

> to probe the thing to the bottom and tell the directors of it and get what information he can."

35. In the present case, as taken note of in the earlier discussion, following an inspection and some inquiries by the complainant, discrepancies were found between the expenditures certified by the respondent no. 1 and the actual amounts spent by the Society. On receipt of the complaint, the Council, after forming a *prima facie* opinion, had referred the matter to the Disciplinary Committee. The Disciplinary Committee had initially found respondent no. 1 guilty of misconduct in the year 2008, but the Council had remanded the matter to the Committee for further inquiries. The Disciplinary Committee had again found the respondent no. 1 guilty, in the year 2013, and the Council had adopted the report of the Committee and had recommended removing his name from the Register of Members for one year. However, in 2017, this Court had directed the Council to reconsider the matter, after affording the opportunity of being heard to both the sides. In 2018, the Council again opined that the respondent no. 1 was guilty of professional misconduct under the Act. The present reference arises from this decision of the Council.

36. At this stage, it shall be relevant to take note of the findings of the Disciplinary Committee, on the basis of which it opined that the respondent no. 1 was guilty of professional misconduct falling within the meaning of clause (7). The Disciplinary Committee in its report dated 02.05.2013 had, *inter alia*, observed as under:

> "22. The Committee in this context noted that the Respondent could not bring on record any evidence to corroborate his

contention that machineries already bought amounting to Rs. 2.50 lacs for which payment was made through demand draft to the concerned party in April 2003 have been returned thereafter and another set of machineries amounting to Rs. 41,000/- were purchased by the Society. The Committee noted that beside copy of the bank statement showing "the DD payment of Rs.2.50 Lacs and the photocopy of the certificate obtained from M/s M.K.M. Associates, the Respondent could not adduce any other document to support his defence. The Committee also noted that the Inspection of the unit was carried out in Marcli, 2004 whereat machinery worth Rs. 41,000/- was found and the Society submitted the report on training for I and II phases vide their letter dated 15 .4.2004 alongwith the second DC dated 28.1.2004 issued by the Respondent certifying the purchase of machinery worth Rs.41,000/- , The Committee, however failed to understand the delay in submitting the 2nd DC of the Respondent by the Society to the Complainant Office (which was procured from the Respondent on 28.1.2004 i.e. before the date of Inspection) vide its letter dated 15.4.2004 (after the date of Inspection). The Respondent also failed to give any cogent reasons for the same.

23. The Committee also noted that the Complainant Department has filed a complaint against M/s M.K.M. Associates in another case wherein the said Firm has categorically denied their involvement in any certification work for the grantee company and has stated it to be a case of forgery. The Disciplinary Committee which inquired into that matter had sought handwriting expert opinion as well wherein the said certificate purportedly issued by M/s. M.K.M. Associates has been established as a clear case of forgery. Thus, the certificate of M/s M.K.M. Associates on which the Respondent has placed reliance in the instant matter is a forged document and the Respondent has placed his reliance on the same at his own risk.

24. The Committee also noted that the Respondent while issuing the First Utilization Certificate dated nil which was received by the Complainant Office on 29.11.2003 did not mention that he had relied on the certificate of another CA and bank statement produced by the society showing the payment made by way of demand draft on 4,4.2003 for Rs.2.50 lakhs. Though the Respondent before the Committee categorically submitted that they had relied on the certificate of another C.A. and the bank statement yet, in the certificate the Respondent did not mention about the same. The Respondent as a prudent

C.A. ought to have clarified the basis of issuance of certificate in the certificate issued by him, along with the constraints if any, while issuing the same. In this context, the Committee noted that the reliance was placed by the Respondent on the certificate issued by another C.A. which turned out to be forged one and the bank statement showing the payment, also showed some overwriting on the amount of Rs.2.50 lakhs.

25. The Committee after detailed examination of the documents available on record was of the opinion that the Respondent has failed to corroborate that he has issued the two certificates after checking of requisite papers maintained in this regard by the Society. The Respondent has even accepted in his submission made before the Committee that he has failed to physically verify the machineries stationed at Manipur and to that extent he placed reliance of the certificate of the another Chartered Accountant firm. The Committee is however, of the view in the instant case that the Respondent has not discharged his duties with reasonable care as is expected of a Chartered Accountant. In light of the same, the Committee is of the considered view that the Respondent is guilty of professional misconduct falling within the meaning of clause 7 of Part I of the Second Schedule to the Chartered Accountant Act 1949."

37. Thereafter, upon considering the report of the Disciplinary Committee and after hearing both the sides and perusing the written statements filed by the respondent no. 1, the Council in its meeting held from 21.03.2018 to 24.03.2018, *inter alia*, held as under:

"15. Upon deliberations, the Council noted that the Disciplinary Committee had thoroughly examined the matter second time on specific issues and at this stage and nothing new has been brought on record by either of the parties. Accordingly, the Council was of the view that as regards the first certificate, the Respondent failed to verify the machineries physically before issuing the said certificate which he ought to have done. As regard his contention in this regard that he has relied on the certificate issued by another Chartered Accountant for M/s,' MKM & Associates and the Bank Statement, the Council upheld the opinion of the Disciplinary Committee in this regard that he ought to have clarified the same in the certificate issued by him by duly mentioning the

fact, which he failed to do.

16. As regard the second certificate dated 28th January, 2004 issued by the Respondent and submitted by the Society to the Complainant organization vide letter dated 15th April, 2004, the Respondent failed to substantiate his contention that machineries already bought for Rs.2,50 lacs for which payment was made through demand draft to the concerned party In April, 2003 have been returned. Thereafter, the Respondent could not bring on record that another set of machineries amounting to Rs. 41,000/- were purchased by the Society. In view of the above, the Council formed a considered opinion that the Respondent did not take necessary care while issuing the said certificate. Thus, In view of the above, the Council accepted the Report of the Disciplinary Committee with respect to this charge."

38. In a nutshell, the Disciplinary Committee and the Council have held as follows:

(a) The Disciplinary Committee observed that the respondent no. 1 failed to independently verify the machinery purchased by the Society before issuing the Utilisation certificates. While issuing the first such Certificate, he merely relied on a certificate (i.e. Receipt and Payment Account) issued by CA firm i.e. M/s MKM Associates, and a bank statement with overwriting, neither of which were adequately verified by him. The Council affirmed that the respondent no. 1 should have clearly mentioned his reliance on these documents in the first Utilisation Certificate issued by him, which he did not mention.

(b) It was noted that the certificate issued by M/s MKM Associates, which was relied upon by the respondent no. 1, was found to be a forged certificate in a related case. The

respondent no. 1, however, relied upon the same without thorough scrutiny, which the Committee and the Council held to be a lack of reasonable care expected of a chartered accountant.

(c) For justifying the issuance of the second Utilisation Certificate, the respondent no. 1 claimed that machinery initially bought for ₹2,50,000/- was returned by the Society, and that new machinery worth ₹41,000/- was subsequently purchased. However, he could not present any documentary evidence to substantiate this claim, nor explain the inconsistency in the records. These acts reflected inadequate diligence and negligence on the part of respondent no. 1.

39. Before this Court, the learned counsel for the respondent no. 1 contended that the Council failed to consider that the first Utilisation Certificate was issued by the respondent no. 1 on the basis of documents such as the Receipt and Payment Account certified by M/s MKM Associates and countersigned by Secretary of the Society, bank statements evidencing the payment of ₹2,50,000/- (being payment towards the machinery), Form-ST35 i.e. the road permit to bring machinery inside Manipur, and letter dated 12.11.2003 by Ms. Prabha Mohanty (Consultant to Mr. G.K. Asthana, Deputy Director of the Complainant) and letter dated 29.11.2003 by Mr. Akai Haokip (Treasurer of the Society). Additionally, it was contended that the Council failed to appreciate that the downward revision from ₹2,50,000/- to ₹41,000/- towards additional machinery in the second

Utilisation Certificate was because most of the machineries that were sent to the Society could not be utilized due to lack of technical expertise/skilled manpower and lack of electricity, and this had been explained in the letter dated 29.11.2003.

40. Insofar as the first Utilisation Certificate issued by the respondent no. 1 is concerned, even if it is accepted that the respondent no. 1 could not have physically verified the machinery by visiting Manipur, and he had to rely on the certificate issued by M/s MKM Associates, Manipur, which he claims is an ethical practice adopted by all CAs, the fact remains that the respondent no. 1 only mentioned in the Utilisation Certificate that he had verified "Books of Account, Vouchers, Wage Registers and other relevant records" but did not mention or clarify that he had primarily relied on the certificate (i.e. Receipt and Payment Account) issued by another CA firm. Eventually, the said certificate issued by M/s MKM Associates was also found to be forged.

41. Insofar as the second Utilisation Certificate issued by the respondent no. 1 is concerned, the respondent no. 1, in his written statement dated 06.03.2006, mentioned that it was the decision of the Society to return the machinery worth ₹2,50,000/- purchased earlier and buy another machinery worth ₹41,000/- and he, as a chartered accountant, had to go by the bills/vouchers/receipts/books of account and other related records submitted by the concerned organization. However, undisputedly, the respondent no. 1 has failed to place on record any document, such as invoice or vouchers or bank statement

or receipts, which he had relied upon to certify that the machinery worth ₹2,50,000/- was returned by the Society and machinery worth ₹41,000/- was purchased.

42. It does appear that the respondent no. 1, on the mere asking of the Society, and without seeking any document from the Society in this regard, had mentioned amount of ₹41,000/- as expenditure towards Additional Essential Machinery in the second Utilisation Certificate, and also later certified that this certificate would supersede all the previous certificates issued by him. There was also no reason assigned by him in the said clarification, as to why the second Utilisation Certificate would supersede the previous certificates issued by him.

43. A specific query was also put to the learned counsel for the respondent no. 1 that if respondent no. 1 is relying on the road permit issued for bringing the machinery worth ₹2,50,000/- in the State of Manipur, whether the respondent no. 1 is also in possession of any such road permit issued while returning the said machinery and bringing another set of machinery worth ₹41,000/- in the State of Manipur. The answer to the said query was in negative.

44. In the given set of facts, we note that in the case of ***Council of Institute of Chartered Accountants of India v. Dayal Singh FCA,*** *2007 SCC OnLine Del 724,* the allegations against the respondent therein (a chartered accountant) were that he was instrumental in getting a loan sanctioned from Union Bank of India in favor of an entity, on the basis of forged documents such as quotations, supply

orders, money deposit receipts of various firms, rent deed and rent receipts etc., and that he had given a false certificate stating that the concerned entity had brought the contribution required in the books on the basis of which loan had been released from Union Bank of India. The Coordinate Bench of this Court accepted the recommendations of the Council and held as under:

> "12. It appears that the officers of the bank completed all paper formalities perhaps at the behest of Respondent No. 1 or at least on the basis of his certificate for disbursement of the loan. **The activity of Respondent No. 1 in issuing such a vague certificate with the intention of persuading the bank to grant his client a loan amounts to other misconduct within the meaning of the Act** read with the Regulations framed there under. We agree with this conclusion.
>
> 13. **The lack of responsibility displayed by Respondent No. 1 clearly shows that he had acted in a manner unbecoming of a Chartered Accountant** and, therefore, the Council rightly recommended removal of his name from the register of members for a period of one month.
>
> 14. We have examined the issue whether the punishment is too harsh but we find that there has to be some degree of integrity and probity which is expected of a Chartered Accountant who is regularly concerned with financial transactions and on the basis of whose recommendations and certificates financial institutions such as banks disburse loans or enter into other financial transactions."
>
> (Emphasis supplied)

45. Similarly, in ***The Institute of Chartered Accountants of India v. Manakchand Laxman Baheti,*** *2023 SCC OnLine Bom 2319*, the Division Bench of Bombay High Court noted that the reports of the Disciplinary Committee had revealed that the respondent therein (a chartered accountant) had no documents on the basis of which the certificates were issued by him. The certificates simply stated that

they had been issued on the specific request of the firm. On being asked to produce documents regarding statements of expenditure incurred by the firms, invoices/vouchers for purchase of plant and machinery for civil work and land development etc., the respondent therein was unable to produce any document. The Court therefore held as under:

> "12. ...On perusal of the committee report and the deposition of Respondent himself, we have no hesitation in accepting that Respondent has been found guilty of certain degree of negligence amounting to misconduct justifying some action against him. **Certifying facts which Respondent failed to verify from relevant documents and failing to record reasons justifying the basis of verification and certification is totally unprofessional and negligent amounting to misconduct**…"
>
> (Emphasis supplied)

46. In ***Institute of Chartered Accountants of India v. Mukesh Gang***, *Reference Case No. 02 of 2011*, the Division Bench of High Court of Andhra Pradesh held that the act of the respondent therein, issuing a certificate without verifying the actual receipts of cash, amounted to gross negligence under the Act. The relevant observations in this regard are as under:

> "As seen from the definition of gross negligence, even an act of omission, or reckless disregard of a legal duty, by a statutory Auditor amounts to gross negligence. In the present facts, the Auditor issued a certificate confirming receipt of Rs.2,25,00,000/- towards promoters contribution, and that 15,00,000 shares, at Rs.10/- per share with premium of Rs.5/-, was allotted though only Rs.35,00,000/- was actually received by the company towards promoters contribution, that too just one day prior to opening of the public issue. **The certificate was issued by the respondent without even verifying actual receipt of cash for such allotment, and without qualifying**

> **the certificate to the effect that the consideration received was subject to realisation of the cheque amount. This act of certification by the respondent amounts to gross negligence since he had voluntarily omitted to do so in reckless disregard of his duty/obligation as the statutory auditor of the company.** The certificate issued by the respondent, which was among the documents which formed the basis for inviting contribution from the public towards share capital of Rs.4,50,00,000/-, is a mis-statement in the prospectus which resulted in defrauding investors of the company, other stakeholders, and the public at large.
>
> ***
>
> It is also contended that to impose penalty or punishment against a professional for his misconduct, the act of such professional must be deliberate and intentional. **While an intentional omission would certainly amount to gross negligence, even failure to discharge the statutory obligation or duty imposed on an Auditor by a statute i.e. issuing certificate, without verifying actual receipt of consideration, amounts to gross negligence since such omission is in utter disregard of the statutory duty imposed on the respondent, and is not a simple professional lapse on his part.** As noted hereinabove, it is based on this certificate that the company invited subscription from the general public for Rs.4,50,00,000/-, even without the promoters contributing Rs.2,25,00,000/- as mentioned in the prospectus, and yet they were allotted shares worth Rs.2,25,00,000/- on payment of merely 35 lakhs to the company."
>
> (Emphasis supplied)

47. Having taken note of the aforesaid judicial precedents, even if we assume – for the sake of argument – that the conduct of the respondent no. 1 in issuing the first Utilisation Certificate would not amount to 'gross negligence', the fact that while issuing the second Utilisation Certificate dated 28.01.2004, the respondent no. 1 did not seek any document such as invoices or receipts or bank statements or road permit for bringing machinery in the State of Manipur *(as it appears from the record)* from the Society which would show return

of machinery of ₹2,50,000/- and purchase of another set of machinery of ₹41,000/-, would amount to lack of due diligence and gross negligence on part of the respondent no. 1, more so when the Utilisation Certificates issued by the respondent no. 1 were for the purpose of securing loans from the complainant.

48. At this stage, we also deem it appropriate to address the question of standard of proof required in the proceedings relating to professional misconduct under the Act, as raised by the respondent no. 1 before this Court.

49. The respondent no. 1 sought to contend that to bring home the guilt of professional misconduct under the Act, the charges have to be proven beyond reasonable doubt. However, it is the Council's case that the proceedings under the Act cannot be equated to criminal proceedings, and the standard of proof would be either balance of probabilities or slightly more, but not beyond reasonable doubt as projected by the respondent no. 1.

50. We find merit in the arguments advanced on behalf of the Council. In this regard, we may refer to the passage on 'Standard of Proof' in the *Halsbury Laws of England*, which reads as follows:

> "19. **Standard of proof.**
>
> To succeed on any issue the party bearing the legal burden of proof must (1) satisfy a judge or jury of the likelihood of the truth of his case by adducing a greater weight of evidence than his opponent, and (2) adduce evidence sufficient to satisfy them to the required standard or degree of proof. The standard differs in criminal and civil cases. **In civil cases the standard of proof is satisfied on a balance of probabilities.**
>
> However, even within this formula variations in subject matter

> or in allegations will affect the standard required; the more serious the allegation, for example fraud, crime or **professional misconduct, the higher will be the required degree of proof, although it will not reach the criminal standard**."
>
> (Emphasis supplied)

51. Thus, in cases of professional misconduct, the degree of proof may be higher than the balance of probabilities, yet the same would not reach the criminal standard of proof beyond reasonable doubt. The aforesaid passage was also cited by the Hon'ble Supreme Court in case of ***Maya Gopinathan v. Anoop S.B. & Anr.,*** *2024 SCC OnLine SC 609.*

52. The Division Bench of High Court of Andhra Pradesh in ***Mukesh Gang*** *(supra),* framed an issue as to whether "these disciplinary proceedings are quasi-judicial and quasi criminal in nature and, if so, what is the standard of proof applicable to such disciplinary proceedings against a professional?". In this regard, it was observed as follows:

> "The Enquiry Officer cannot also reject relevant testimony of witnesses on the basis of surmises and conjectures. A charge in a departmental proceedings, as held in *M.V.Bijlani v. Union of India and Ors.*, is not required to be proved beyond reasonable doubt like in a criminal trial, but should be proved on a preponderance of probabilities.
>
> In *A, a pleader v. The Judges of the High Court of Madras* the Privy Council held that the evidence should be carefully taken and judged according to the ordinary standards of proof.
>
> A Constitution of the Supreme Court, in *Gulabchand v. Kudilal,* after adverting to the law laid down in *Jarat Kumari Dassi v. Bissessur* and referring to the definitions of proved, disproved and not proved contained in Section 3 of the Indian Evidence Act, held as follows:
>
> It is apparent from the above definitions that the Indian

> Evidence Act applies the same standard of proof in all civil cases. It makes no difference between cases in which charges of fraudulent or criminal character are made and cases in which such charges are not made. But this is not to say that the Court will not, while striking the balance of probability, keep in mind the presumption of honesty or innocence or the nature of the crime or fraud charged. In our opinion, Woodroffe, J., was wrong in insisting that such charges must be proved clearly and beyond reasonable doubt.
>
> In view of the law laid down by the Constitution Bench of the Apex Court, in *Gulabchand v. Kudilal (referred supra)*, and the Judgment of the Privy Council in *A, a pleader v. The Judges of the High Court of Madras (referred supra)*, it must be held that the standard of proof required to establish a charge, in a disciplinary proceedings, is on a preponderance of probabilities, and cannot be equated with the standard of proof in a criminal prosecution, wherein a charge is required to be proved beyond reasonable doubt. Accordingly, this point is decided."

53. The ratio in ***Mukesh Gang*** *(supra)* was followed by the Division Bench of Calcutta High Court in ***Joydeep Roy v. The Institute of Chartered Accountants India & Ors***., *2024 SCC OnLine Cal 1211*.

54. In ***Institute of Chartered Accountants of India, Indraprastha Marg, New Delhi v. CA Gordhanbhai Madhabhai Savalia***, *2023 SCC OnLine Bom 2347*, the Division Bench of Bombay High Court, while deciding a reference under Section 21(5) of the Act, noted as under:

> "Though the degree of proof required in disciplinary action is much less than a criminal prosecution, it can still be safely inferred that there is a cloud of doubts over the finding of guilt of Respondent."

55. One of us (Vibhu Bakhru, J.) in ***Lalit Agrawal v. The Institute***

of Chartered Accountants of India & Anr., *2019 SCC OnLine Del 6960* has also taken a view that while the standard of proof as required in criminal proceedings is beyond reasonable doubt, the standard of proof as required in disciplinary proceedings under the Act is preponderance of probabilities. However, as the weight of the authorities indicates, it is higher than preponderance of probabilities, but not as high as beyond reasonable doubt.

56. The learned counsel for the respondent no. 1 had relied on the decision in ***H.V. Panchaksharappa v. K.G. Eshwar,*** *(2006) 6 SCC 721,* wherein it was held that the charge of professional misconduct under the Advocates Act, 1961 must be proved beyond reasonable doubt, and had contended that the same standard should be followed in cases of chartered accountants too.

57. We, however, are not inclined to accept the said contention. Though both an Advocate and a Chartered Accountant are professionals, their duties and responsibilities are distinct. Advocates have the primary responsibility of representing clients in legal proceedings and providing legal advice. Their duties are also closely intertwined with the ethical standards of courtroom conduct, where they serve as Officers of the court. This requires them to maintain a high degree of accountability toward the Court, clients, and the legal system as a whole. In contrast, Chartered Accountants operate in the areas of finance and accounting, and are tasked with delivering accurate financial information, advising on taxation, auditing financial statements, and ensuring compliance with accounting

standards and regulatory requirements. While their professional ethics also demand honesty, integrity, and accuracy, the focus is more on financial integrity and regulatory compliance. Chartered accountants, having specialized expertise in financial management and auditing, often deal with confidential financial information. Thus, the nature of misconduct in each profession, the type of harm caused, and the expectations from these professionals vary significantly.

58. Even otherwise, the Three-judge Bench of Hon'ble Supreme Court in ***Pandurang Dattatraya Khandekar v. Bar Council of Maharashtra, Bombay & Ors.,*** *(1984) 2 SCC 556,* in respect of disciplinary proceedings and charges of professional misconduct under the Advocates Act, 1961, also held that the findings in disciplinary proceedings have to be sustained by a higher degree of proof than that required in civil cases, but not the standard of proof as required in criminal cases, and that there should be convincing preponderance of evidence. The relevant extract of the decision is reproduced hereunder:

> "6. In an appeal under Section 38 of the Act this Court would not, as a general rule, interfere with the concurrent finding of fact by the Disciplinary Committee of the Bar Council of India and the State Bar Council unless the finding is based on no evidence or it proceeds on mere conjectures and surmises. **Finding in such disciplinary proceedings must be sustained by a higher degree of proof than that required in civil suits, yet falling short of the proof required to sustain a conviction in a criminal prosecution. There should be convincing preponderance of evidence**."
>
> (Emphasis supplied)

59. Therefore, the contention raised on behalf of the respondent

no. 1 that the charges of professional misconduct in the present case will have to be proven beyond reasonable doubt – like a criminal prosecution – is unmerited.

60. When the material placed before the Disciplinary Committee and the Council in this case is analysed, even after considering the defense of the respondent no. 1, we find that the charges against the respondent no. 1 have been proven with reasonable certainty, which is higher than the standard of preponderance of probabilities and evidence.

61. Therefore, for the reasons recorded hereinabove, in the given facts and circumstances, we are of the view that the Council has not erred in holding the respondent no. 1, guilty of professional misconduct under clause (7) of Part-I of Second Schedule to the Act.

62. Insofar as the recommendation for removing the name of respondent no. 1 from the Register of Members for one year is concerned, we note that the respondent no. 1 has been a member of ICAI for approximately three decades, with no history of any other complaint or allegation of misconduct on record. The present complaint was filed against him in the year 2005, and the proceedings against him have remained pending for about 19 years.

63. In similar circumstances, the Hon'ble Supreme Court in ***P.K. Mukherjee*** *(supra),* considering that the proceedings against the respondent therein had remained pending for about 13 years, had directed as under:

> "In our opinion, the conduct of respondent No. 1 is wholly

> unworthy of a Chartered Accountant who is expected to maintain a high standard of professional conduct. The proper punishment would have been the removal of the respondent No. 1's name from the Register for a limited period but in view of the fact that the proceedings have been pending against respondent No. 1 for a long time, we think that the ends of justice will be served in this particular case if respondent No. 1 is severely reprimanded for his misconduct under s. 21(2) of the Act."

64. A similar view was also adopted by the Punjab & Haryana High Court in ***The Institute of Chartered Accountants of India v. Union of India & Anr.,*** *CREF-1-2017 (O&M), decided on 02.08.2022,* where the proceedings had remained pending for about 16 years.

65. Thus, considering that the present proceedings have continued for 19 years without any history of professional misconduct by the respondent no. 1, we believe that ends of justice would be served by severely reprimanding the respondent no. 1, under Section 21(6)(b) of the Act, for his professional misconduct.

66. The decision of the Council is thus modified to the aforesaid extent.

67. In above terms, the present reference is disposed of.

SWARANA KANTA SHARMA, J

VIBHU BAKHRU, J

NOVEMBER 20, 2024/*A*