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

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Date of decision: 14.01.2026

+ CHAT.A.REF 1/2018

**COUNCIL OF THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA**

.....Petitioner

Through: Ms. Pooja M. Saigal, Sr. Advocate
with Ms. Ananya Choudhary and Mr.
Ankit Mittal, Advocates.

versus

SHRI S.N. SHIVAKUMAR

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

DINESH MEHTA, J. (ORAL)

1. The present reference has been preferred under Section 21(5) of the Chartered Accountants Act, 1949 (*hereinafter referred to as 'Act of 1949'*) seeking confirmation of the punishment that has been imposed upon the respondent-a chartered accountant to the effect of removal of his name from the register of members of the Council of the Institute of Chartered Accountants of India (*hereinafter referred to as 'the Institute'*) for a period of three months.

2. The facts giving rise to this reference are, that the Reserve Bank of India (*hereafter referred to as 'RBI'*), sent a communication dated 20.10.2006 informing the Institute that the audit report as furnished by



Escorts Finance Limited (*hereafter referred to as 'Company'*) through its statutory auditors i.e. M/s N.M. Raiji & Co.(of which respondent is a partner) for the Financial Year 2004-2005, does not give true, correct and complete disclosure with respect to the liability of the company on account of public deposits and ever greening of the assets by the company.

3. Acting on the aforesaid communication, the institute issued a notice dated 04.06.2008 to the respondent. In response thereof, the firm furnished a reply dated 08.08.2008, with which, the Institute was not fully satisfied and the matter was treated as an information case and a notice dated 30.12.2008 was served upon the respondent-member.

4. In August 2009, a *prima facie* opinion was formed by the institute and the matter was decided to be investigated by the Disciplinary Committee. The Disciplinary Committee, in turn, took the proceedings in accordance with law. In spite of the notice, the respondent had not filed any reply/response/explanation. The Disciplinary Committee thus, considered the material available and recorded a finding, against the respondent.

5. When the matter was taken up by the Institute, as per sub Section 3 of Section 21 of the Act of 1949, the respondent took a plea that since the Act of 1949 had undergone a change his case should be governed by the amended Act, and not by the unamended Act.

6. The institute did not agree with the submission so made by the respondent and imposed the aforesaid punishment by in the meeting dated 20.04.2017-21.04.2017, being 364th (Adj.) meeting of the institute.

7. Before proceeding further, it would be apt to record that all the three charges were framed against the respondent, which reads as under:-



"Charge no 1: It appears that the Respondent-firm as the auditors have not verified the exact liability of the Company on account of public deposits at the time of auditing Company's accounts as on March 31, 2005. Subsequently, it transpired from the Respondent-firms' reply that liability towards accrued unpaid interest on public deposits for earlier period up to March 31, 2005 was not made available to them by the Company.

Charge no 2: The Respondent-firm as the auditors could not detect 'ever-greening of assets' by the Company while finalizing the Company's Balance Sheet as at March 31, 2005.

Charge no 3: The Respondent-firm's explanation that issuing auditor's certificate for the year ended March 31, 2005 at this stage as required in terms of Para 8(2) (Part Ill- Special Provisions) of Notification No.DFC.118/DG(SPT)-98 dated January 31, 1998 issued by RBI will not serve any purpose, is in contravention of the provisions of RBTs directions as it is obligatory on the part of the auditors to submit such certificate."

8. The said decision of the Institute has been sent before this Court by way of reference under Section 21 (5) of the Act of 1949. Learned Senior Counsel for the petitioner Institute at the outset, pointed out that the respondent has been served with a notice sent by the registry of the Court. She added that even the paper publication was made, yet neither the member nor anybody on his behalf has appeared.

9. Learned Senior Counsel for the petitioner submitted that the charges against the respondent, more particularly, charge number 1 and 2, are serious. She highlighted that the respondent while furnishing the audit report of the company had reflected transactions to the tune of Rs.48 crores as cash in hand (as balance in current account), whereas, the amount related to those



cheques which got credited in the Company's account at a much later point in time i.e. on 25.06.2005. She submitted that such dubious act done by the Company was not reflected by the auditor firm. As a result thereof, the assets of the Company were falsely, inflated. She further submitted, that the firm in which the respondent was a partner did not also report the interest liability to the tune of Rs.17.23 crores.

10. Having highlighted the above irregularities, she submitted that the same was done with ill-motive or with a view to give undue advantage to the Company, which happened to be a financial company, engaged in the business of accepting/deposits and giving loans. She added that said company's activities had been closed by the RBI, considering various malpractices including the fabrication of balance sheet and non-disclosure of true and correct affairs.

11. She argued that had the respondent-firm or its partners were bonafide and vigilant and stuck to the oath which the partners had taken, reporting could not have been done in the manner as has been done by the firm and consequently, regulatory bodies could have assessed the real financial status of the Company. She submitted that the punishment of three months' of removal deserves to be affirmed.

12. Having heard learned Senior Counsel for the Institute and considering the material available on record, more particularly the fact, that the respondent neither chose to file his reply nor he contested the case before the Disciplinary Authority nor has he stated anything substantial before the members of the Institute. That apart, in light of the seriousness of the allegations and more particularly charge No. 1 and 2 which have been found true, we are of the view, that the punishment imposed upon the respondent



deserves to be affirmed or confirmed.

13. The reference is, therefore answered/allowed. The punishment of removal of the respondent from the register of members of the Institute for a period of three months' by 364th (Adj.) meeting of the Institute held between 20.04.2017-21.04.2017 *qua* the respondent, namely, Shri. S. N. Shivakumar is hereby affirmed.

14. It has been informed that the respondent's certificate is inactive, though surviving. Such being the position, and the fact that despite service of the notice and publication in the newspaper, nobody has appeared on behalf of the respondent, we hereby order that his membership shall not be revived unless the respondent moves an application in this regard and after completion of aforesaid period of three months: The removal shall, however be made effective w.e.f. 01.04.2026.

15. Ordered accordingly.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

JANUARY 14, 2026/MR