

BEFORE THE APPELLATE AUTHORITY

(Constituted Under the Chartered Accountants Act, 1949)

S. No.	Name of Appeal	Appeal No	Appellant/ Respondents
1.	Devendraa P. Kapur Vs. Institute of Chartered Accountants of India & Others Additional Director (FA), SFIO	02/ICAI/2018	...Appellant Respondent No. 1 to 5 Respondent No. 6
2.	Devendraa P. Kapur Vs. Institute of Chartered Accountants of India & Others Additional Director (FA), SFIO	03/ICAI/2018	...Appellant Respondent No. 1 to 5 Respondent No. 6
3.	Devendraa P. Kapur Vs. Institute of Chartered Accountants of India & Others Additional Director (FA), SFIO	04/ICAI/2018	...Appellant Respondent No. 1 to 5 Respondent No. 6

CORAM:

Hon'ble Mr. Justice S.P. Garg
Hon'ble Mr. Praveen Garg
Hon'ble Mr. Anand Mohan Bajaj
Hon'ble Mr. Pankaj Tyagee

Chairperson
Member
Member
Member

PRESENT:**For the Appellant:**

Mr. R. Sudhinder, Ms. Prerana Amitabh and Mr. Shashank, Advocates along-with Mr. Devendraa P. Kapur, Appellant in person, Mr. Kamal Bahri and Ms. Sapna Kapur, all appearing for all the above mentioned Appeals/applications.

For the Respondents:

Mr. Amit Sharma Advocate along-with Dr. Rashmi Goel, Deputy Secretary, CA. Mohita Khanna, Assistant Secretary and Ms. Aruna Sarma, Senior Executive Officer, Disciplinary Directorate in all the above-mentioned Appeals appearing on behalf of ICAI.

Ms. Smriti Chaturvedi, ACGC, UOI on behalf of SFIO in all the above-mentioned Appeals/applications.

ORDER**Date: 26.02.2020**

1. We have been informed by the Registrar of the Authority that Shri J. Venkateswarlu, one of the members of the Appellate Authority is not available for hearing the application for extension of time to dispose of these matters by Institute of Chartered Accountants of India on his being busy elsewhere today.

2. This order shall dispose of an application dated 17th January, 2020 filed by Respondent No. 1/Applicant Institute seeking extension of time by 6 months to conclude the proceedings in the above case pending before it. The application is contested by the non-applicant/Appellant.
3. We have heard the Learned Counsel for the parties and have examined the file.
4. It is a matter of record that vide order dated 01.11.2018, this Authority had remanded these appeals and the Disciplinary Committee (DC) was directed to dispose of the cases within 6 months from the receipt of the order. The outer limit for disposal of the matter pending before Disciplinary Committee expired on 01.05.2019. The DC did not proceed with the matter; no extension was sought from the Appellate Authority. The DC issued notice to the non-applicant after the expiry of the period of 6 months on 08.07.2019. Learned Counsel for the non-applicant urged that the proceedings initiated by the DC are in violation of the direction of this Authority. DC was grossly negligent in not complying with the directions. The non-applicant had moved an application before the DC raising preliminary legal objection, but it was not taken note of. The non-applicant was not given reasonable opportunity of being heard and in a hurry, the DC passed an order holding the non-applicant 'guilty'. The said order is *non-est* in law and DC had no jurisdiction to adjudicate the matter.
5. In the application, it is informed by the Institute that as the DC at the relevant time was committed with certain important cases of national interest, the proceedings could not be initiated in terms of order dated 01.11.2018. After the issuance of the notice, several dates of hearings were scheduled but on all dates except one, the applicant sought adjournments.
6. On perusal of the record, it reveals that the Institute was negligent in the non-compliance of the directions of this Appellate Authority. The DC was required to seek extension of time from this Authority had there been any difficulty on any count to dispose of the matter within six months. At the same time, the Authority is of the view that after the proceedings were initiated by DC, albeit on expiry of the period of 6 months, it attempted to expedite it and scheduled its hearing at short intervals but on all except one date, the non-applicant sought adjournments on one ground or the other. The DC, after hearing the non-applicant has already passed an order dated 11th February, 2020 holding the non-applicant "guilty". Further proceedings are to be initiated only for awarding punishment, (if any).
7. Considering all the facts, this Authority is of the view that in the interest of justice, two months period more should be given to DC to conclude its proceedings. For the delay in non-compliance of the directions, the Institute can be burdened with costs.

8. In view of the above discussion, the Institute is granted a period of two months from the date of this order to conclude the proceedings pending before DC, subject of payment of costs of Rs.50,000/- (Rupees Fifty Thousand Only) within a week. Needless to say, the non-applicant shall duly co-operate in the proceedings pending before the DC. The non-applicant shall be at liberty to raise all these issues at an appropriate stage.

Justice S. P. Garg
Chairperson

Praveen Garg
Member

Anand Mohan Bajaj
Member

Pankaj Tyagee
Member