

**BOARD OF DISCIPLINE (BENCH-II)**

**(Constituted under Section 21A of the Chartered Accountants Act, 1949)**

**Findings under Rule 14(9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007**

**CA. Kailash Chandra Moondra (M. No. 070789) in Re:**

**[PPR/144/15/DD/121A/INF/15/BOD/347/2017]**

**CORAM:**

**CA. Atul Kumar Gupta, Presiding Officer  
Shri Arun Kumar (Government Nominee)  
CA. Prasanna Kumar D, Member**

**In the matter of:**

**CA. Kailash Chandra Moondra ... (M. No.070789)  
of M/s K.C. Moondra & Co.,  
Chartered Accountants,  
22, Sripal Nagar,  
Saket Ashram Road,  
SUMERPUR-306 902**

**.....Respondent**

**DATE OF FINAL HEARING: 18.07.2019**

**PLACE OF HEARING: NEW DELHI**

**PARTIES PRESENT:**

**Respondent : CA. Kailash Chandra Moondra**

**Findings:**

1. The Board noted that the charge on which the Respondent was held guilty by the Director (Discipline) of Other Misconduct falling within the meaning of Clause (2)

of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of said Act is that the Respondent black-mailed the Assessee(s) i.e. Adarsh Credit Co-operative Society and Adarsh Co-operative Bank and told that Rs. 36 Lakhs is required to be paid to AO as bribe for not making the case of search assessment. Accordingly, the Respondent by fraud, mischief and malafide intention diverted total amount of Rs. 40.68 Lacs received from assessee(s) in the name of his wife, son, son's wife. There is another charge that the assessee paid Rs. 1.00 crore in cash to the Respondent for Individual cases and the Respondent has not declared the amount of Rs. 1.00 crore neither for tax purpose nor for any other purpose.

2. The Board on perusal of page number 'A6' noted that the Respondent and his family members were paid amount Rs. 40,68,000 as under:

Name of payee and PAN	Amount Paid (in Rs.)			Section	TDS
	Adarsh Credit Society-TAN JDHA02512G	Adarsh Co-op. Bank-TAN JDHM03921B	Total amount paid		
Kailash Chandra Moondra, C.A.-self. ABAPM5943K	2,25,000	2,25,000	4,50,000	194J	44,500
CA. Mukul Moondra -son. APSPM9688M	6,67,000	6,67,000	13,34,000	194J	1,33,400
Deepika (Kabra) Moondra, C.A., Daughter in Law. AUDPK4249C	6,67,000	6,67,000	13,34,000	194J	1,33,400
Usha Moondra, (house lady) Wife. ABAPM7731M	9,50,000	0	9,50,000	194H	95,000
<b>Total</b>	<b>25,09,000</b>	<b>15,59,000</b>	<b>40,68,000</b>		

3. The Board noted that the Respondent submitted that he and his son were Counsels for Income Tax purposes for such cases and were looking more than 150 Income Tax cases and the alleged amount relates to their professional fees from Adarsh Credit Cooperative Society Limited and Adarsh Bank. In case of his wife, Usha Moondra was getting Commission Income from the Society for rendering her service which is declared by her in Income Tax Returns. The Board

noted the submission that CA. Deepika (Kabra) Moondra, Daughter-in-Law was paid fees on account of professional/consultancy services.

4. The Board noted that on the said deduction of Tax at source was made under section 194J and 194H of Income Tax Act relating to TDS on Professional Fees or Technical Services and TDS on Commission and Brokerage respectively. The Respondent also brought on record Bills relating to above issued by him/ his son and his Daughter in Law. The Board also noted that although no engagement letter in this regard was brought on record by the Respondent, however the bills produced by the Respondent were duly acknowledged by the respective assessee(s). The Board also noted that as regards no engagement letter the Respondent submitted that there is single engagement letter for all three Chartered Accountants and the said letter is deposited with the Income Tax Department. The Respondent accordingly submitted that he is presently not having any engagement letter. The Board noted that it is coming on records that the Respondent appeared on behalf of these assessee(s) before Income Tax and hence decided to accept the submission of the Respondent.
5. The Board also noted that the fee was paid through cheque and tax was also deducted on the same. The Board also noted that it is not comprehensible as to why a prudent person will take amount of bribe through Cheque and also cause deduction of tax on the same. Looking, into the same, the Board decided that there is no evidence on record to positively establish that the amount of Rs. 40.68 Lakhs was given for payment of bribe. Hence the Board holds the Respondent Not Guilty on this charge.
6. As regards charge relating to payment of Rs. 1.00 crore in cash, the Respondent denied receiving of such amount. The Board noted from the certified copy of statement of Account of Mr. Mukesh P. Modi (Managing Director, Adarsh Cooperative Bank) that the amount of Rs. 1.00 crores was withdrawn on 13.07.2010 and his account showed balance of more than 1 crore till the 15.11.2011 (alleged date of paying the amount to the Respondent). The Board further viewed that apart for holding this 1.00 crores idle in account, Mr. Mukesh Modi had withdrew amount in cash as drawing on different dates. Hence, the Board viewed that it is highly incomprehensible that as to why a prudent Banker keeps Rs. 1.00 crores idle in his account for more than 16 months. The Board noted that apart from Bank statement on record (which are also the internal

document of the Bank), there is no positive/ concrete evidence on record to establish that the Respondent was given Rs. 1.00 crore in cash. Hence, the Board holds him Not Guilty.

**CONCLUSION:**

7. In view of the above, the Board is of the view that there is no substantive evidence available before this Board and the Board does not have any evidences available to substantiate the charges. Accordingly, in the absence of any evidence available against the Respondent, the Board concluded that the Respondent is **NOT GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of said Act. Accordingly, in terms of the provisions of Rule 15(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules 2007, the Board passes Order for closure of the case.

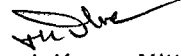
**Sd/-**  
**(ATUL KUMAR GUPTA)**  
**PRESIDING OFFICER**

**Sd/-**  
**(ARUN KUMAR)**  
**GOVERNMENT NOMINEE**

**Sd/-**  
**(PRASANNA KUMAR D)**  
**MEMBER**

**DATE : 18.07.2019**  
**PLACE : NEW DELHI**

Certified True Copy



**Mukesh Kumar Mittal**  
Assistant Secretary  
Disciplinary Directorate

Institute of Chartered Accountants of India  
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