

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings cum Order under Rule 18(17) and 19(2) of the Chartered Accountants (Procedures of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No.PR-268/16/DD/324/16-DC/916/18

In the matter of:

Smt. Kanta Parshotam Rani
No.169, Guru Nanak Nagar,
Grover Colony,
Hamira Road, Kapurthala
PUNJAB - 144601

.....Complainant

-Vs.-

CA. Chandra Prakash Pandey (M.No.148808)
M/s. C.P. Pandey & Co.
06, Ground Floor,
Krishna Vihar CHS,
Tata Compound, IRLA,
Near Fire Brigade,
S.V. Road, Andheri (W)
MUMBAI 400 058

.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer,
Shri Rajeev Kher, IAS (Retd.), Government Nominee
CA. Rajendra Kumar P, Member
CA. Chandrashekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 29.05.2019

PLACE OF FINAL HEARING : ICAI Tower, Bandra Kurla Complex, Mumbai

PARTIES PRESENT:

Respondent : CA. Chandra Prakash Pandey

CHARGES IN BRIEF:-

1. The Respondent was handling tax assignment for the Complainant for the financial year 2014-2015 and 2015-2016. The charge against the Respondent was that the Complainant paid an amount of Rs. 11870/- and Rs. 13270/- to the Respondent towards the income tax for the Assessment Years 2014-15 & 2015-16 respectively for deposit of this on his behalf, but the Respondent failed to deposit the said amount. The Complainant alleged that he had received two intimation notices under Section 143(1) of Income Tax Act, 1961 wherein the total tax for both the aforesaid years are shown as outstanding.

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

2. On the day of hearing, the Complainant was not present however, the Respondent was present. The Committee further noted that the Complainant vide e-mail dated 04th March, 2019 withdrew her complaint. The Respondent was put on oath. In respect of charge levelled against him, he pleaded not guilty and opted to defend his case. The Respondent made his submissions on the charge. The Committee also posed questions to the Respondent. After hearing the final submissions, the Committee concluded the hearing.

FINDINGS OF THE DISCIPLINARY COMMITTEE

3. The Committee noted that the crux of the charges was that the Respondent failed to deposit the amounts of Income Tax of the Complainant for the Assessment years 2014-15 and 2015-16 which were entrusted to him by the client and due to failure on his part, the Complainant received notices u/s Section 143(1) of the Income Tax Act.
4. In respect of the above charge, the Respondent stated that the Complainant had addressed a letter to the Respondent firm wherein the Complainant agreed to the fact that the error was on the part of the employee of the Respondent firm. The Respondent also brought on record a copy of letter written to the employee giving warning for his error / mistake related to errors in filing of returns of the Complainant.

4.1 The Respondent also stated that he has from his own pocket, deposited the tax of Rs.18,509/- for the Assessment year 2014-15 and an amount of Rs.15,605/- for Assessment year 2015-16. The Respondent provided copy of challan receipt and copy of 26AS in support of these payments made by him.

4.2 Upon perusal of request of withdrawal of complaint, the Committee noted that the Complainant stated therein that in view of admissions of mistake on the part of employee and rectification of mistake by depositing the due taxes, she would like to withdraw her complaint.

5. The Committee after keeping in view all the facts as mentioned above and documents on record, is of the view that though mistake appeared on part of the Respondent as he as In-charge of the Respondent firm was required to ensure payment of taxes, yet keeping in view subsequent corrective steps taken by the Respondent by paying outstanding taxes in March, 2017, a warning letter issued to the errant employee and in view of withdrawal of complaint by the Complainant, benefit may be extended to the Respondent. Accordingly, the Committee decided to hold the Respondent is not guilty of the professional misconduct falling within (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION

6. Thus, taking an overall view of the facts and circumstances of the case and law and based on the submissions / documents placed on record before it, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.
7. Accordingly, the Committee passes an Order for closure of this case under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of cases) Rules, 2007.

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(SHRI RAJEEV KHER, IAS (Retd.))
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE: 10.02.2020
PLACE: NEW DELHI