



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PR-211/12-DD/104/2013/DC/454/2016]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT,
1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS
(PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER
MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

In the matter of:

Shri Heera Ram, Bikaner

-vs-

CA. Praveen Kumar Aggarwal (M.No.015159), New Delhi

[PR-211/12-DD/104/2013/DC/454/2016]

Date of Order: 6 August, 2020

MEMBERS PRESENT:

- 1. CA. Nihar Niranjana Jambusaria, Presiding Officer**
- 2. Shri Arun Kumar, IAS (Retd.), Government Nominee**
- 3. Ms. Nita Chowdhury, IAS (Retd.), Government Nominee**
- 4. CA. (Dr.) Debashis Mitra, Member**
- 5. CA. Jay Chhaura, Member**

1. That vide report dated 03rd February, 2020, the Disciplinary Committee held **CA. Praveen Kumar Aggarwal (M.No.015159), New Delhi** (hereinafter referred to as the "**Respondent**") **GUILTY** of professional Misconduct falling within the meaning of Clauses (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 as amended from time to time.

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication dated 22nd July, 2020 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 06th August, 2020.

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3. The Respondent appeared before the Committee on 06th August, 2020 and submitted his written representations dated 04/03/2020 on the findings of report of Disciplinary Committee. He in addition to his written submission submits that the present matter relates to a firm located in Bikaner. There were 5-6 partners out of which the Respondent only interacted professionally with one partner and relied upon data/documents provided by him. He further accepted his mistake for not verifying books of accounts and other documents which was mandatorily required to express his opinion on financial statements. The Respondent added that he is of 71 years of age and pleaded before the Committee to take a lenient view in his case.

4. The Committee considered the written submissions made by the Respondent as above and findings of the earlier Committee holding the Respondent guilty of professional misconduct. The Committee was of the view that no satisfactory submission was given when categorically asked about the mismatching of figures from Rs.13,83,460.45 to Rs.13,460.45. The Committee further note that the Respondent signed the Balance sheet which was not signed by the partner/s of the firm without verifying books of accounts and which were further submitted to the Tax department clearly depicts negligence on the part of the Respondent while performing his professional duties and failed to obtained sufficient information. He rather relied upon the information/data provide by one of the partner of the Respondent Firm. Hence, the Committee is of the view that apart from showing casual behavior while performing audit assignments the Respondent was also grossly negligent in the conduct of his professional duties. Accordingly, ends of justice can be met if reasonable punishment is given to him.

5. Thus, keeping in view the facts and circumstances of the case as aforesaid, the material on record, submissions of the Respondent before it,



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this Committee orders that the name of the Respondent i.e. CA. Praveen Kumar Aggarwal (M.No.015159), New Delhi be removed from the register of members for a period of 01 (one) Year.

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Sd/-

**(CA. NIHAR NIRANJAN JAMBUSARIA)
PRESIDING OFFICER**

Sd/-

**(SHRI ARUN KUMAR, IAS (RETD.)
GOVERNMENT NOMINEE**

Sd/-

**(MS. NITA CHOWDHURY, IAS (RETD.)
GOVERNMENT NOMINEE**

Sd/-

**(CA. (DR.) DEBASHIS MITRA)
MEMBER**

Sd/-

**(CA. JAY CHHAIRA)
MEMBER**

Certified to be true copy

[Handwritten signature]

CA. Suneel Kumar

Assistant Secretary,

Disciplinary Directorate

The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

[File No. PR- 211/12-DD/104/2013/DC/454/2016]

In the matter of:

Shri Heera Ram,
S/o. Shri Tiku Ram,
R/o Bidasaria Tehsil Nokha,
Distt. Bikaner,
Bikaner

...Complainant

Versus

CA. Praveen Kumar Aggarwal (M.No.015159)
23, Bhai Veer Singh Marg,
Gole Market,
New Delhi – 110 001

....Respondent

MEMBERS PRESENT:

CA. Prafulla Premeasukh Chhajed, Presiding Officer,
Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee)
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee)
CA. Babu Abraham Kallivayalil, Member
CA. Dayaniwas Sharma, Member

DATE OF FINAL HEARING/ORDER : 23.05.2019

PLACE OF FINAL HEARING/ORDER : ICAI, New Delhi

PARTIES PRESENT:

Complainant : Not Present
Respondent : Not Present
Counsel for the Respondent : CA. C.V. Sajan





FINDINGS:

1. The Committee noted that on the day of hearing, the Complainant was not present. The Respondent was not present but his Counsel was present. Since the Complainant was absent without any prior intimation, the Committee decided to proceed ahead with the matter ex-parte the Complainant. On being enquired from the Counsel for the Respondent as to whether he would like to have de-novo hearing or the hearing can be continued from the stage as it was left in last hearing, he opted for hearing in continuation to last hearing. Thereafter, the Counsel for the Respondent made his submissions on the charges. The Committee also posed some questions to the Counsel for the Respondent. As regard the submissions related to withdrawal of complaint by the Complainant, the Committee noted that the Complainant disputed the authenticity of withdrawal letter by stating that he had not submitted any letter of withdrawal. Accordingly, the Committee did not consider the letter of withdrawal. After hearing the submissions, the Committee decided to conclude the hearing in the aforesaid matter.

2. As regard the allegation, the Complainant in his complaint stated that the Respondent firm carried out the audit of M/s. Rameshwar Lal Mana Ram for the accounting period 01.04.2005 to 31.03.2006. In Schedule A of the Capital Account, an amount of Rs. 13,83,460.45 was shown in the name of the partner, Shri Heera Ram (the Complainant) and in the schedule 'C', an amount of Rs. 3,86,500 was shown as unsecured loan. The Complainant stated that the copy of the above Balance Sheet was obtained from the Income Tax Department under Right to Information. However, in the copy of Audit Report furnished by the Respondent under his signature in the High Court of Rajasthan, Jodhpur, the Respondent has tampered the figure from 13,83,460.45 to Rs. 13,460.45. In this way, the Respondent tried to grab the Complainant's amount of Rs.17,65,500 by showing only Rs. 13,460.45 instead of Rs. 13,83,460.45.

3. The Respondent in his written submissions and during his verbal submissions before the Disciplinary Committee through his Counsel stated that there were some genuine mistakes in the balance sheet which was detected at the last moment and the revised balance sheet was prepared and signed by one partner, Shri Rameshwar Lal. Only revised balance sheet has signature of partner of the firm. The other balance sheet does not even contain signature of any partner of the clients firm. The

only change in the revised balance sheet was that by Rs.13,70,000/- Sundry Creditors and expenses have been increased and by an equivalent amount, Capital Account balance was reduced as drawings by the Complainant.

3.1. The Respondent further stated that in the revised trial balance submitted by Shri Rameshwar Lal, payment in cash of Rs.13,70,000/- was shown which was debited to Sundry Creditors and expenses payable in the original Balance Sheet. This amount was given to the Complainant for making payment to laborers but funds were used by the Complainant in his personal capacity. In Income Tax office, only revised balance sheet was filed and original balance sheet was not filed. The Respondent stated that the Complainant is misusing photo copy of the original balance sheet. The Respondent stated that he did not know as to how the copy of the original Balance Sheet was obtained by the Complainant. The opening balances in the next financial year 2006-07 were as per the revised Balance Sheet of 31.03.2006.

3.2 The Respondent also stated that the reason for complaint was dispute among the partners who are family members and close relatives.

4. In respect of above charge, the Committee observed that the Complainant brought on record copy of Computation of Income and the Balance Sheet of the firm for the year 2006. As per the Complainant, copy of the said documents was obtained by him from the Income Tax Department. It is observed that copy of the said documents was attested by the Income Tax Officer as True Copy. It is also noted that copy of the said balance Sheet was signed by the Respondent but not signed by any partner of the firm. In this regard, there was no satisfactory clarification from the Respondent as to why he signed the Balance Sheet without the signature of any partners on the same. In the said balance sheet, amount of share capital of the Complainant in the firm was shown as Rs.13,83,460/- and amount of unsecured loan outstanding in the name of the Complainant as on 31.03.2006 was shown at Rs.3,86,500/-.

4.1 On perusal the second set of balance sheet which as per the Complainant was submitted to the Hon'ble High Court of Rajasthan, it is noted that the same was signed by Respondent and one of the partners of the firm on same date and in Share Capital Schedule, only Rs.13,460/- was shown as capital of the Complainant and unsecured loan was shown as zero.

5. It is noted that as regard the difference in both the sets, the Respondent only stated that some advances were given to the Complainant for making payment to

laborers but instead of utilization of the same for given purpose, the Complainant used it for personal purpose and accordingly, the said amount was adjusted from his accounts and revised balance sheet was submitted to the Hon'ble High Court. Though the Respondent claimed that advances were given and the same was adjusted from the account of the Complainant but he did not provide any documentary evidence to support his claim. Moreover, the Respondent failed to bring on record copy of the balance sheet submitted to the Income Tax Department and accordingly, failed to establish that revised balance sheet was submitted with the Income Tax Department. Further, the Respondent has not offered any clarification to the fact if the Balance Sheet was revised then why revised audit report does not contain any comments in respect of first set of financial statement signed by the Respondent. Hence, it is apparent that the Respondent was grossly negligent in performing his professional duties and failed to obtain sufficient information to express his opinion on the financial statement. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clauses (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

6. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning Clauses (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. PRAFULLA PREMSUKH CHHAJED)
PRESIDING OFFICER

Sd/-
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))
GOVERNMENT NOMINEE


Sd/-
(MS. RASHMI VERMA, I.A.S. (Retd.))
MEMBER

Sd/-
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Sd/-
(CA. DAYANIWAS SHARMA)
MEMBER

DATE : 03rd February, 2020
PLACE : New Delhi

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Chartered Accountants
Institute of Chartered Accountants of India
100, N. E. Marg, New Delhi-110 002