

**CONFIDENTIAL**

**BOARD OF DISCIPLINE**

**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**

**File No. : [PPR/47/16/DD/71/INF/18/520/2019]**

**CORAM:**

**CA. Prasanna Kumar D., Presiding Officer**

**(physically at ICAI Bhawan, Vishwas Nagar, New Delhi)**

**Mrs. Rani Nair (IRS, Retd.), Government Nominee**

**(attended through VC)**

**In the matter of:**

**CA. Deepak Goyal (M. No. 096883) in Re:  
Sunam, Punjab.**

**....Respondent**

**DATE OF FINAL HEARING**

**: 18<sup>th</sup> January, 2021**

**PLACE OF HEARING**

**: Delhi/through video conferencing**

**PARTIES PRESENT (through video conferencing)**

**Respondent**

**: CA. Deepak Goyal (M.No. 096883)**

**FINDINGS:**

1. The Board noted the charge against the Respondent that he vide his certificate dated Nil has certified the cash withdrawal payments of Rs. 15,000/- & Rs. 40,000/- by Mr. Parveen Kumar Goyal, Proprietor of M/s Guru Nanak Khad Bhandar which were paid to Mr. Sarvjit Singh (Informant). According to the Informant, M/s Guru Nanak Khad Bhandar, based on this certificate, made complaint against him with his employer M/s. Rashtriya Chemical & Fertiliser Ltd. on 5/11/2013 that said amount is given as Loan and bribe on 15.05.2013 and 30.06.2013 . Further, an amount of Rs. 4,587/- was also shown for payment of Hotel Bill on 30.09.2013. Further, the informant alleged that the Respondent has certified the cash payment transactions in excess of Rs. 20,000 which is illegal as per law and such cash book based on which this payment was certified was unnamed and unsigned.
2. While considering the Prima facie opinion formed by Director (Discipline), the Board observed that the alleged certificate issued by the Respondent was undated and the vouchers on the basis of which the alleged certificate had been issued by the Respondent appeared not to be genuine as there was no signatures of the recipient on the voucher dated 30<sup>th</sup> September 2013, the revenue stamp was affixed and the proprietor had signed on the revenue stamp affixed on the vouchers dated 15<sup>th</sup> May 2013 and 30<sup>th</sup> June 2013 raising doubt on the genuiness of the vouchers and thus while the Board agreed with the prima facie opinion of the Director that the Respondent is NOT GUILTY of Professional Misconduct falling within the meaning of Clause (7) of

Part I of the Second Schedule, it did not concur with the view of the Director(Discipline) 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 and thus, decided to proceed under Chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

3. The Board heard the submissions of the Respondent who was present before it through Virtual Conferencing and duly considered the documents available on record and concluded the proceedings in the case with the direction to the Respondent to submit the copy of the audited financial statement alongwith Tax audit report of M/s Gurunanak Khad Bhandar for the Financial Year 2013-14 which were submitted by the Respondent through email after the close of the hearing on the same day and were duly considered by the Board along with other documents on record while arriving at its findings.

4. The Board on perusal of the undated certificate issued by Respondent observed that it, inter-alia, provided as under:  
*" An amount of Rs. 15000 debited to capital account as on 15.05.2013 as paid to Mr. Sarvjit Singh RCF and again Rs. 40000 debited to capital account as on 30.06.2013 paid to Sarvjit Singh and a Hotel Bill of Rs. 4587 also debited to capital account paid on 30.09.2013."*

The Board noted that in the instant case, the role of the Respondent is limited to the extent of issuance of the aforesaid certificate wherein it was clearly mentioned that certificate is given on the basis of Books and Records produced before him and the Respondent only certified that withdrawals had been there from the capital account. The Board was of the view that since a Certificate is basically a written confirmation of the facts therein, it cannot be stretched upon to state that the Respondent certified that the withdrawal is in cash. The Board also viewed that certifying "Drawings " from capital account does not automatically mean certification of claiming "expenditure" under the Income Tax Act or any law.

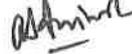
5. The Board also perused the copy of the Journal Voucher dated 15.05.2013, 30.06.2013 and 30.09.2013 and observed that certain amount of withdrawals were there by the proprietor of the firm to be paid or paid for Sarabjit Singh RCF. Further, during the course of hearing Respondent also submitted that the certificate was issued for withdrawal of capital at the request of the proprietor of the firm, it remained undated due to professional work pressure at the time the said certificate was issued and since the vouchers were basically for the withdrawal of amount for his personal use by the proprietor from his capital account, therefore, the signature on the voucher was of the proprietor only, he being the recipient of the said amount. He also added that the accounts of the firm were subjected to tax audit and the payment was duly reflected in the accounts. The Board noted that certificate issued by the Respondent was in line with the Journal Voucher and audited Books of Account of the firm brought on record by the Respondent. The Board was of the opinion that end use of money withdrawn by the proprietor from his capital account for legal or any illegal purpose ("bribe" as alleged by the informant in this case) does not make a Chartered Accountant responsible who has just certified withdrawal of certain amounts from the capital account. Thus, the Board was of the view that no misconduct is evident on the part of the Respondent. 

**CONCLUSION**

6. Thus, the Board of Discipline, in view of the above, is of the considered opinion that the Respondent is **Not Guilty** of Other Misconduct falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountants Act 1949 read with section 22 of the said Act. Accordingly, the Board passed Order for closure of the case 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.

**Sd/-**  
**CA. PRASANNA KUMAR D.**  
**(PRESIDING OFFICER)**

Certified to be true copy



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