



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

PR/194/2017-DD/233/2017/BOD/497/2018

ORDER UNDER SECTION 21A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

In the matter of:-

Ms. Shreya Gupta, Alwar, Rajasthan

...Complainant

-Vs.-

CA. Sidharth Sahni (M.No. 515503),
M/s. Sidharth Sahni & Associates,
Chartered Accountants, Chandigarh

...Respondent

[PR/194/2017-DD/233/2017/BOD/497/2018]

MEMBERS PRESENT: (Through video conferencing)

CA. Prasanna Kumar D., Presiding Officer
Mrs. Rani Nair, (IRS, Retd.), Government Nominee
CA. Satish Kumar Gupta, Member

Date of Final Hearing: 5th October, 2021

1. The Board of Discipline vide Report dated 11th February, 2021 held that **CA. Sidharth Sahni (M.No. 515503)** is guilty of "Other Misconduct" falling within the meaning of Item (2) of Part-IV of the First Schedule of the Chartered Accountants Act, 1949 read with section 22 of the said Act.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Sidharth Sahni** and communication dated 16th September, 2021 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 5th October, 2021. **CA. Sidharth Sahni** also submitted his written representation dated 18th September, 2021 on the findings of the Board.
3. **CA. Sidharth Sahni** appeared before the Board on 5th October, 2021 through video conferencing and made his oral representation thereat.
4. **CA. Sidharth Sahni** in his written representation/ email dated 18th September, 2021 inter-alia submitted as under:-
 - a. He has already submitted on record the available evidence and supporting documents during the various proceedings. It would be really harsh to consider him as an accomplice and conniver to the so called Mr. Pankaj Garg.

As



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

PR/194/2017-DD/233/2017/BOD/497/2018

- b. The Respondent has been working hard as a CA and has developed a good reputation with his clients, and he is quite sure that each one of them can vouch for the clarity in his working and as well as financial dealings with them.
- c. The account opened with the Axis Bank was not the only account opened by the fraudsters but other accounts were also opened with HDFC Bank and other branches of Axis Bank, and that too with certificates from CAs. The Respondent is not pin pointing or blaming anyone, and emphasized that CAs are also humans, even after proper due diligence CAs can be deceived by cunning people.
- d. Also, attention should be given to numerous certificates issued by the Respondent for Axis Bank before and after this certificate. The certificate under consideration is not the only certificate issued by the Respondent. Had the Respondent been a conspirator, it would have been either the only certificate issued by him, or no certificate would have been issued after this certificate.
- e. The Respondent is neither absconding and have been present for every police verification, every notice, every Court hearing, every proceeding of the ICAI and is still present and available at his registered address. If the Respondent was a party to the fraud, wouldn't it have been easy for him to just flee, get away from the scene, let the matter settle. But, that's not the case because his conscience is clear, because the Respondent meant no harm to anyone. The Respondent further reiterated that he is neither involved in any fraud nor competent to be part of one.
- f. The very profession which has helped the Respondent to earn respect, earn bread for family, gave him confidence, gave him an identity, the Respondent will never endanger it. The Respondent further apologized if he brought any disrepute to the Institute, but the Respondent had no intention and was unaware that things would turn out in this way and have already mended his conduct.
- g. The Respondent has already suffered a lot emotionally and psychologically dealing with the police and the ongoing proceedings, but he is ready to accept any punishment for his negligence which the Board wishes to pronounce.

5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Sidharth Sahni**.

6. As per the Findings of the Board as contained in its report, the Certificate is a written confirmation of the facts stated therein and when a Chartered Accountant issues a certificate, it is believed to be 'True and Correct'. Thus, when the Respondent issued the alleged certificate dated 16th March 2015, he ought to have exercised due professional skepticism to see that the correct facts as to the existence of the business are certified on the basis of the examination of the necessary documents which in the instant case was clearly missing. The Respondent issued the alleged certificate casually without verifying the underlying documents



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

PR/194/2017-DD/233/2017/BOD/497/2018

like bank account statements and ensuring the genuineness of the underlying documents like registration certificate issued by the Labour Department. The Respondent also categorically accepted before the Board at the time of hearing that he did not verify the Books of Accounts, Bank Accounts Statements etc. and it was stated so in the Certificate as a format had been provided by the bank in which the Certificate had to be issued by him. The issue of the certificate by the Respondent to Axis Bank certifying the credentials of Mr. Pankaj Garg as its proprietor enabled him to fraudulently open the bank account with the Axis Bank under the name & style Mahatma Gandhi Institute of Medical Sciences and fraudulently realise the Demand Drafts obtained from gullible students like the Complainant who lost substantial amount of money on the promise of medical seats in the said college. Keeping in view the facts and documents made available on record, the Board viewed that Respondent acted in connivance of Sh. Pankaj Garg. The aforesaid act of the Respondent is clearly unbecoming of a Chartered Accountant and has also brought disrepute to the profession and the Institute. Thus, it has already been held that **CA. Sidharth Sahni** is Guilty of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule of the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

7. Upon consideration of the facts of the case, the consequent misconduct of **CA. Sidharth Sahni (M.No. 515503)** and keeping in view his oral and written representation before it, **the Board decided to remove the name of CA. Sidharth Sahni (M.No. 515503) from the Register of Members for a period of 15 (fifteen) days and also imposed a fine of Rs. 1,00,000/- (Rupees One Lakh only) upon him payable within a period of 60 days from the date of receipt of the Order.**

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

Date: 10th January, 2022

सही प्रतिलिपि होने के लिए प्रमाणित /
Certified to be true copy

अरुण कुमार / Arun Kumar
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nager, Shahdra, Delhi-110032

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. : [PR/194/2017/DD/233/2017/497/2018]

CORAM:

CA. Prasanna Kumar D., Presiding Officer (physically at ICAI Bhawan, Indraprastha Marg, ITO, New Delhi)

Mrs. Rani Nair (IRS, Retd.), Government Nominee (attended through VC)

CA. Durgesh Kumar Kabra, Member (physically at ICAI Bhawan, Indraprastha Marg, ITO, New Delhi)

In the matter of:

Ms. Shreya Gupta,

House No. 299,

Scheme No. 1, Arya Nagar, Alwar

Rajasthan-301001

.....Complainant

Versus

CA. Sidharth Sahni (M. No. 515503) in Re:

House No.1248, Sector 22-B,

Chandigarh-160022

.....Respondent

DATE OF FINAL HEARING : 22nd December, 2020

PLACE OF HEARING : New Delhi/through Video conferencing

PARTIES PRESENT (through video conferencing)

Complainant along with her father : Ms. Shreya Gupta

Respondent : CA. Sidharth Sahni (M.No. 515503) ✓

FINDINGS:

Charge alleged:

1. The Respondent was involved in fraud with one Mr. Pankaj Garg for opening of fictitious account in the name of Mahatma Gandhi Institute of Medical Science, Wardha Maharashtra with the help of Bank officials and has withdrawn the Complainant's DD amount at Axis Bank, Chandigarh due to which the Complainant lost money of Rs. 8 lakhs and opportunity to pursue MBBS. The Respondent created fake documents in the name of Mahatma Gandhi Institute of Medical Science to facilitate wrongful and fraudulent encashment of DD's.

Brief of proceedings:

2. The Board heard the submissions of the Complainant and the Respondent who were present before it through video conferencing and duly considered the documents available on record to arrive at its findings.

Brief of submissions:

3. The Respondent in his written statement dated 26th March 2019 and 20th December 2020 , inter-alia, submitted as under:
 - 3.1 Though the certificate issued by the Respondent has been used in a malafide manner by its beneficiary, but the same has been issued after physically verifying the documents vis-a-vis Form F issued by the Labour Department under Punjab Shops and Commercial Establishments Act, 1958, PAN card and Driving License issued by Sub Divisional Officer (Civil), Hissar, Haryana.
 - 3.2 The Board feels that the entity for which the certificate was issued was a medical college. But no document says so.
 - 3.3 The document in Form F issued by the labour Department clearly specifies the nature of business as Institute. Also, the Account Opening Form specifies it as an educational Institute. The term Institute is a wider term and doesn't include only a college. A coaching centre is also an Institute in that regard. It's a matter of interpretation. At the time of issuing the documents, the Respondent took it as latter and based on that interpretation only for the purpose of verifying the documents, no further investigation was required. Coaching Centres these days start from tiny houses of individuals, place in the shopping complex is larger still.

3.4 The Respondent was not in possession of any other document and had acted in good faith with proper conduct and the Complainant filed the case to harass him.

3.5 He has also been cheated by Mr. Pankaj Garg along with Complainant.

4. The Complainant in her submissions dated 2nd April 2019, inter-alia, submitted as under:

4.1 The Respondent issued a letter on 16th March, 2015 which proclaims that Respondent had given his confirmation to the AXIS Bank Chandigarh for opening the account for Pankaj Garg. The Respondent despite of knowing the falseness of the documents mentioned that he has inspected the books of accounts, bank account statements, business address and documents viz. FORM F and confirmed that certificates are true which are in reality not true. The Respondent knew what was the purpose of opening the bank account and the source of money (which was her DD) then also he certified that. In this context, he attested A/c opening Form which is totally rectified on 17/3/15 on false grounds. The Respondent approved that registration certificate was authentic but in reality it was fake as it has been scanned from internet which is a complete FRAUD as declared by investigator and Police Department and Sales Tax Department.

4.2 ADDRESS on page C-8 and that on page C-11 are totally different for the so called proprietor Mr. Pankaj Garg because on page C-8 it is given as house no. 192 DC colony, Hissar, Haryana whereas on page C-11 it is given as SCO-14 ,First Floor, Swastik VIHAR Mansadevi , Panchkula ,Haryana.

4.3 In the document at C-6, the Respondent has accepted that he has verified all the document in front of the Magistrate but in reality if he had verified it then he would never approve Pankaj Garg for that account. So, the crux of the matter is that the Respondent has hatched a conspiracy with Pankaj Garg to steal her money.

4.4 The Complainant did not question whether MAHATMA GANDHI INSTITUTE OF MEDICAL SCIENCE was an institution or not but was questioning the legitimacy of that bank account issued in the name of Pankaj Garg. The Respondent was a cooperator of Mr. Pankaj Garg in indulging in illegal practice.

5. The Board noted that the prime document under examination is the Certificate dated 16th March 2015 issued by the Respondent which was addressed to the Axis Bank, Sector 22 B, Chandigarh wherein the Respondent stated that Mr. Pankaj Garg has approached him for issuing a certificate regarding the proof of existence of business of M/s Mahatma Gandhi Institute of Medical Sciences and the date of inspection of the business has been specified as 8th January

2015. The Respondent confirmed the bonafides of Mr. Pankaj Garg in the said Certificate after inspection of the Books of Accounts, Bank Accounts Statements, business address and documents viz. Form F (Registration Certificate under Punjab Shops and Commercial Establishment Act, 1958) and being satisfied about their authenticity.

6. The Respondent categorically accepted before the Board at the time of hearing that he did not verify the Books of Accounts, Bank Accounts Statements etc. and it was stated so in the Certificate as a format had been provided by the bank in which the Certificate had to be issued by him. He issued the certificate on the basis of the Certificate issued by the Labour Department, PAN card, and Driving license.
7. The Board also perused the Charge Sheet number 895/2015 dated 28th September, 2015 which disclose the involvement of one ishwar alias Sumit Garg and Mahendra Singh alias Pankaj Garg in the fraud and a case under section 420,406,467,468,471 and 120 B of IPC has been made out against them. It was also stated in the Charge Sheet that an account had been opened in Chandigarh in the name of the Institute on the basis of fake documents and the amount of DD had been realised. It further specified that on investigation, it was known that fake registration of Labour Department and DL scan from computer had been used to open an account in the Axis Bank bearing no.91 5020014109394 in the name of Pankaj Garg and thereafter, the DD no. 021746 which was taken from the Complainant Shreya Gupta was realised in it.
8. The Board also perused the Statement of the Respondent dated 9th March 2016 recorded before the Chief Judicial Magistrate, Alwar with respect to case no. 1206/2015 wherein he stated that Sh. Pankaj Garg presented him the Certificate issued by the Labour Department, PAN card, and Driving license for issue of the certificate and he only verified the PAN Card online and did not check the other documents.
9. The Board also noted that the Demand Draft which the Complainant got issued in the name of the Institute was payable at Wardha.
10. On a combined reading of the above observations, the Board held that a Certificate is a written confirmation of the facts stated therein and when a Chartered Accountant issues a certificate, it is believed to be 'True and Correct'.

Thus, when the Respondent issued the alleged certificate dated 16th March 2015, he ought to have exercised due professional skepticism to see that the correct facts as to the existence of the business are certified on the basis of the examination of the necessary documents which in the instant case was clearly missing. The Respondent issued the alleged certificate casually without verifying the underlying documents like bank account statements and ensuring the genuineness of the underlying documents like registration certificate issued by the Labour Department.

The issue of the certificate by the Respondent to Axis Bank certifying the credentials of Mr. Pankaj Garg as its proprietor enabled him to fraudulently open the bank account with the Axis Bank under the name & style Mahatma Gandhi Institute of Medical Sciences and fraudulently realise the demand drafts obtained from gullible students like the Complainant who lost substantial amount of money on the promise of Medical seats in the said college. Thus, the possibility of the Respondent acting in connivance with the so called Sh. Pankaj Garg cannot be ruled out. The said conduct of the Respondent is clearly unwarranted and unbecoming of a Chartered Accountant and needs to be corrected. Accordingly, the Board held the Respondent guilty in respect of the charge alleged.

CONCLUSION

11. Thus, in view of the above, the Board of Discipline is of the considered opinion that the Respondent is **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.

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

DATE : 11th February, 2021

Certified to be true copy

Mukesh Kumar Mittal
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032