



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

PPR-P-354/2017-DD/346/INF/2017/BOD/445/2018

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:

CA. Pankaj Arora (M. No. 520003), Sirhind In Re:

[PPR-P-354/2017-DD/346/INF/2017/BOD/445/2018]

MEMBERS PRESENT:

CA. Prasanna Kumar D., Presiding Officer (In person)
Mrs. Rani Nair, (IRS, Retd.), Government Nominee (Through video conferencing)

Date of Final Hearing: 9th February, 2022

1. The Board of Discipline vide Report dated 11th February, 2021 held that CA. Pankaj Arora (M. No. 520003) is Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of First Schedule to the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Pankaj Arora and communication dated 3rd February, 2022 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 9th February, 2022.
3. CA. Pankaj Arora appeared before the Board on 9th February, 2022 through video conferencing and made his oral representation thereat. CA. Pankaj Arora reiterated his earlier submissions and further stated that the use of said picture on the facebook was only for information of his friends and no gain was derived by him by use of said picture.
4. The Board has carefully gone through the facts of the case and also the oral representation of CA. Pankaj Arora.
5. As per the Findings of the Board as contained in its report with respect to the charge against CA. Pankaj Arora that he advertised his professional attainments/ services on a sign board pointing a direction to his office and used the words 'INCOME TAX & GST CONSULTANTS' the Board was of the view that the members are not allowed to use the term 'Income Tax Consultant' on professional documents which was apparent on the picture alleged to contain the Sign board of Respondent with his presence and the same clearly depicts the misconduct on the part of the Respondent. The Board

As



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was also of the view that a social media platform i.e. Facebook was used for advertising attainments/ services which has wide exposure and it is not germane as to who whether Respondent or someone else had posted the same on his post as the Respondent's name was clearly used in the same. Thus, it has already been held that CA. Pankaj Arora is Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

6. Upon consideration of the facts of the case, the consequent misconduct of CA. Pankaj Arora (M. No. 520003) and keeping in view his oral representation before it, the Board decided to Reprimand CA. Pankaj Arora (M. No. 520003).

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

DATE: 11th February, 2022

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

अरुण कुमार / Arun Kumar
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, 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. : [PPR-P-354/2017-DD/346/INF/2017/BOD/445/2018]

CORAM: (Through Video Conferencing)

CA. Prasanna Kumar D., Presiding Officer

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

CA. Durgesh Kumar Kabra, Member

In the matter of:

CA. Pankaj Arora (M. No.520003) In Re:

H. No. 3891/12,

Railway Road, Hamayunpur,

Sirhind 140 400

.....Respondent

DATE OF FINAL HEARING : 6th November, 2020

PLACE OF HEARING : New Delhi/ through video conferencing

PARTIES PRESENT:

Respondent : CA. Pankaj Arora (through Video Conferencing)

FINDINGS:

1. The Board noted the charge against the Respondent that he advertised his professional attainments/ services on a sign board pointing a direction to his office and used the words as under:-

"CA PANKAJ ARORA
CHARTERED ACCOUNTANTS
INCOME TAX & GST CONSULTANTS



(M): 98141-00109"

2. During the hearing held on 6th November, 2020, the Board noted that the Respondent appeared before it through video conferencing and made his oral submissions which were duly considered by the Board.

3. The Board noted that the Respondent in his written statement, inter-alia, submitted as under:

(a) The issue being treated as 'Information' under the Chartered Accountants Act, 1949 was a facebook post/image shared by one of his colleagues on his timeline. It was neither shared by Respondent nor it was present on his timeline. The image in question had a small signboard with the use of word 'Income Tax & GST Consultant'.

(b) On perusal of Clause 7 of Part I of First Schedule to the Chartered Accountants Act, 1949 it is amply clear that a chartered accountant is guilty of professional misconduct only when he advertises firstly his professional attainments or secondly his services. There is no advertisement of professional attainment in the Respondent's case. Clause 7 is not absolute and is limited by a proviso. The said proviso clearly affords a chartered accountant in practice to lay down the services provided by him subject to the guidelines of the Council. The Respondent drew attention to the guidelines issued pursuant to Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 namely ICAI Guidelines No.1-CA(7)/Council Guidelines/01/2008, dated 14th May, 2008 GUIDELINES FOR ADVERTISEMENT FOR THE MEMBERS IN PRACTICE (Issued). The relevant para number 3 is being reproduced for your kind reference:

"3. The write-up may include only the following information:

(A) For Members

(i) Name

....

....

(xvii) Services provided

(a)

(b)

(c)"

The said guideline clearly provides in principal approval for laying down the services provided by a chartered accountant in practice and surely Income Tax and GST are core areas of our competencies and services. It is therefore humbly reiterated that the use of words 'Income Tax & GST Consultant' was only informational and within the express ambit of the permission afforded by the Council.

(c) The Director (Discipline) while prima facie agreeing with the information furnished has solely relied on the interpretation of Clause 7 at page 154 of Code of Ethics which says that a chartered accountant in practice should desist from using 'Income Tax Consultant'. This interpretation at best can only be an opinion and cannot be said to independent of legal analysis within the ambit of the parent Act i.e. Chartered Accountants Act, 1949. When the sole purpose of using 'Income Tax & GST Consultant' was informational and it was never meant to solicit work or advertise professional attainments, the usage of consultant has to be taken in the right perspective and the right context.

(d) Sirhind is a small rural town in Punjab which does not boast of many practicing chartered accountants. Most of the professionals in the area are lawyers and advocates who do most of the Sales Tax and VAT related works. The common population in Sirhind is generally and wrongly under the impression that Chartered Accountants only perform audit function and there was real need to convey the information that even GST work could be done by CA's. The image in question was taken during the period of September, 2017 when the GST had newly come into force and first Returns were about to start. The signboard was temporarily placed for informational purpose to convey the services provided by the Respondent abiding in letter and spirit with the Council Guidelines in a bonafide manner.

Further, as is evident from the said image, the signboard was not affixed on any wall or ground and was completely moveable. It was also small in size and only visible from close proximity. It was placed in a locality where there were small shops and residential houses. The site in question was not a very affluent market place or a large official commercial complex and as such there was no great advantage being derived from its placement. The town of Sirhind is a rural town where Gurumukhi (Punjabi) is the only language of communication. All contents of advertisements, sign boards, name plates, etc. are therefore primarily in Punjabi and English is seldom used as a means of communication. Even the image in question has sign boards placed in the background which have Gurumukhi scripts marked on them. 'Consultant' is a word used in common parlance by most of the legal professionals around who work in the field of Income Tax and GST. It was therefore used in want of a better word to convey the information that even Income Tax and GST related work was being performed by the Respondent.

(e) Without prejudice to the merit of the arguments above, the Respondent felt that placement of the signboard at best can only be a bonafide mistake and also in the absence of any disproportionate advantage derived by the Respondent by the use of 'Income Tax & GST Consultant' the charge against him be dropped.

4. The Board took into view the ICAI Guidelines No. 1-CA(7)/ Council Guidelines/01/2008, dated 14th May, 2008 with respect to Guidelines for Advertisements to be ensured by the members wherein under Clause "4. Other Conditions" it is mentioned that the write up used by the member shall be such:-

"(ii) The write-up should not claim superiority over any other Member(s)/Firm(s).

....

(viii) The write-up should not be of font size exceeding 14.

(ix) The write-up should not contain any information other than stated in Para 3 hereinabove.

(x) The write-up should not contain any information about achievements/award or any other position held."

Upon perusal of above guidelines, the Board observed that the Respondent has not followed the said guidelines in letter and spirit and used the words which gives a depiction that Respondent is practicing the profession as an Income Tax and GST consultant and that too in

the form of banner outside his office containing an arrow mark to refer clients to visit his office in that direction which clearly violates the above clause (ix) and (x).

5. The Board also noted that as per Code of Ethics (Reprint May, 2009) while dealing with Item (7) of Part I of First Schedule at page 154 it is mentioned as under:-

"This clause prohibits advertising of professional attainments or services of a member. However, the services can be advertised in a restricted way through a write up subject to the guidelines of the council issued from time to time. Refer chapter 6 of the book. It also restrains a member from using any designation or expression other than that of a Chartered Accountant in documents through which the professional attainments of the member would come to the notice of the public.

It is improper for a Chartered Accountant to state on his professional documents that he is an Income-tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant.

Upon perusal of the same, the Board was of the view that the members are not allowed to use the term 'Income Tax Consultant' on professional documents which was apparent on the picture alleged to contain the Sign board of Respondent with his presence and the same clearly depicts the misconduct on the part of the Respondent.

6. The Board was also of the view that a social media platform i.e. Facebook was used for advertising attainments/ services which has wide exposure and it is not germane as to who whether Respondent or someone else had posted the same on his post as the Respondent's name was clearly used in the same.

7. Thus, having regard to the attendant circumstances, the evidence on record and the submissions of Respondent, the Board is of the considered view that the Respondent has committed an act of Professional Misconduct falling within the meaning of Item (7) of Part I of the First Schedule to the Chartered Accountants Act 1949 for advertising his professional attainments/ services on signboard which was depicted on Facebook/ social media platform.

CONCLUSION:

8. In view of the above, the Board of Discipline is of the considered opinion that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of the First Schedule to the Chartered Accountants Act 1949.

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, Shahdra, Delhi-110032