

**DISCIPLINARY COMMITTEE [BENCH – I (2021-2022)]**

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

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

**REF. No. PR/G-205/2017/DD/201/17/DC/960/2018**

**In the matter of:**

**The Deputy Director of Income Tax  
Unit 4(3). 5<sup>th</sup> Floor,  
Aayakar Bhawan Annexe,  
P-13, Chowringhee Square,  
KOLKATA – 700 069**

**.....Complainant**

**Versus**

**CA. Sandeep Kumar Sureka (M.No.061803)  
41, B B Ganguly Street  
Central Plaza, 1<sup>st</sup> Floor R No. A 8  
KOLKATA - 700 012**

**....Respondent**

**MEMBERS PRESENT: -**

**CA. Nihar N Jambusaria, Presiding Officer  
Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee),  
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee),  
CA. Durgesh Kumar Kabra, Member**

**DATE OF FINAL HEARING : 08.10.2021  
PLACE OF FINAL HEARING : Through Video Conferencing**

**PARTIES PRESENT:**

**Respondent : CA. Sandeep Kumar Sureka,  
Counsel for the Respondent : CA. A. P. Singh**

**BRIEF OF THE DISCIPLINARY PROCEEDINGS: -**

1. The Committee noted that on the day of final hearing held on 08.10.2021, neither the Complainant nor any authorized representative was present. The Respondent along with his Counsel was present. The Committee noted that the Complainant requested for adjournment of hearing. Since a number of hearing(s) have already been fixed in the above matter and the Complainant was not present in any of the hearing(s) and moreover, last hearing was adjourned in order to provide final opportunity to the Complainant, the Committee decided to continue with the hearing ex-parte the Complainant. Thereafter, the hearing commenced from the stage as it was left in last hearing. The Counsel for the Respondent made his submissions on the charges and pointed out that the Complainant department has not submitted any documentary evidence to substantiate the charges. The Committee also noted that the Complainant department has not provided documentary evidence except mentioning that retraction statements have not been accepted by the Complainant department and the companies were shell companies. After hearing the submissions of the Respondent, the Committee decided to conclude the hearing in the above matter. With this, the hearing in the matter was concluded.

1.1 In respect of previous hearings held in the matter, the Committee noted as under: -

- i) In respect of hearing held in the matter on 16<sup>th</sup> August 2021, the Committee noted that the Complainant was not present. The hearing continued from the stage as it was left in last hearing. The Counsel for the Respondent made his contentions / submissions in the matter. After hearing the contentions / submissions, the Committee decided to adjourn the hearing in the above matter. The Committee also directed to the office to inform to the Complainant that next hearing in the above matter would be final opportunity to them. Further, the Complainant was directed to produce evidence in support of the charges, specifically with regard to the role of the Respondent in providing accommodation entries and whether Retraction statement filed by the Respondent has been accepted or disputed by the Complainant department, within 14 days of receipt of the letter / notice. However, the Complainant did not provide the same.

ii) In respect of hearing held in the matter on 18.11.2020, it is noted that the Respondent along with his Counsel was present. Since last hearing in the above matter held on 29.09.2020 was part heard & adjourned, the then Committee decided to commence hearing in continuation to last hearing. The Respondent did not raise any objection to the same. The Counsel for the Respondent made his submissions on the charges. The then Committee posed questions to the Respondent. The Respondent stated that he should have been provided copy of the statement of which references are coming in the statement of the Respondent. The Committee also noted that after hearing, the Complainant was asked to provide copy of all the statements of the persons whose reference was coming in the statements of the Respondent. However, the same was not provided by the Complainant.

iii) In respect of hearing held on 29.09.2020, it is noted that the Complainant was not present. The Respondent along with his Counsel was present. Since there was no prior intimation / information from the Complainant for not attending the hearing, the Committee decided to proceed ahead with the hearing ex-parte the Complainant. The Respondent was put on oath. On being enquired about the charges leveled against the Respondent, the Respondent pleaded not guilty to the charges. Thereafter, the Committee decided to adjourn the hearing in the matter.

**CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE: -**

2. As regard the charges alleged against the Respondent, it is noted that the following charges were levelled against the Respondent: -

2.1 That the Respondent is a controller of many paper / Jamakharchee Companies and he was operating these shell Companies. The Respondent was neither a director nor employee of M/s. Ford Developers Pvt. Ltd, but he controlled the said Company through dummy directors (one of the dummy directors was Mr. Raju Roy and he was employee of the Respondent). The Respondent was controlling many Companies in this manner to provide accommodation entries through these Companies. The Respondent has facilitated the evasion of tax by entering into conspiracy with the beneficiaries.

3. The Committee also noted that statement of the Respondent was recorded by the Income tax Department and the excerpts of the statement of the Respondent are as below: -

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*"I am managing and operating the day-to-day activities of the above-mentioned company. This company is dealing in trading of share. Sri Raju Roy is my employee. I have made him dummy director in various companies controlled and managed by me."*

*"I know the Bhaglaxmi Group through Surender Chopra (Contact No. 9322277556). M/s Ford Developers Private Ltd has given accommodation entries to Bhaglaxmi Group for unsecured loans. By issuing interest free convertible debentures during F.Y.2010-11."*

*"Cash given to Mr. Surender Chopra by Bhaglaxmi Group and Mr. Surender Chopra providing us cheques for giving these accommodation entries to Bhaglaxmi Group for unsecured loan."*

3.1 Further, the statements of Sh. Raju Roy recorded by the Income Tax Department said that the Respondent was involved in creating shell entities for accommodation entries.

4. In respect of above charges, the Committee noted that the Respondent denied the charges leveled against him and made the following submissions in his defence: -

4.1 The Complainant failed to produce any evidence / proof on record showing that the Respondent was owner of paper companies as alleged.

4.2 In respect of charge that the Respondent was controlling the companies through dummy directors, no proof beyond reasonable doubt has been produced by the Complainant.

4.3 The Respondent stated that the Complainant has referred to some Bhagyalaxmi Group and Vedant Re rolls Private Limited, in addition to Ford Developers Private Limited. The Respondent stated that there is no proof or any statement (either against the Respondent or relating to the role played by him with respect to the business of accommodation entries) on record from any individual(s) as the owner or representing the management of Bhagyalaxmi Group and Vidant Re rolls Private Limited. The Respondent stated that there is only one statement from the Director of Ford Developers Private Limited and that statement in any case is not reliable as evidence.

4.4 The Respondent also stated that the Complainant has not provided copy of statement of other persons whom references were coming in the statements of the Respondent and Mr. Raju Roy. The Respondent also stated that if there was any accommodation entry, there would have to be a provider of cash, methodology for payment of cash and routing of such

money through certain companies / entities but no such cash trail has been provided for or even referred by the Complainant. The Respondent also stated that the Income Tax Department has not questioned the Respondent about earning of commission and further, there is no addition of income in the hands of the Respondent in respect of commissions as alleged in the complaint.

4.5 In respect of Ford Developers Private Limited, the Respondent stated that no amount of income has been added back during the assessment of Ford Developers Private Limited representing the so-called accommodation entries.

4.6 As regard the charge that the Respondent has facilitated evasion of taxes in the hands of various beneficiaries, the Respondent stated that no such "various beneficiaries" have been identified and not even any estimation of the so called "evasion of taxes" have been made by the Complainant.

4.7 The Respondent also submitted that he and Shri Raju Roy have filed retraction statements with the Complainant Department stating therein their statements under Section 131 of the Income Tax Act, 1961 were recorded under duress and threats.

5. The Committee has carefully perused the documents and submissions on record and observed that the charges against the Respondent were made based on the statements recorded by the Complainant Department under Section 131 of the Income Tax Act, 1961. Except copy of the statements on oath, no other documentary evidence was provided with by the Complainant. Further, the Complainant was not present in any of the hearings held in the extant matter. When the Complainant was asked to provide documentary evidence and information with regard to the role of the Respondent and amount involved in the matter etc. but these vital information / documents have not been provided by the Complainant. On the other hand, the Respondent stated that their statement u/s 131 of the Income Tax Act, 1961 were recorded under duress and threats and they have retracted their statements within 10 days by filing affidavits dated 27.02.2015 and 26.02.2015 wherein they have explicitly mentioned that their statement was recorded forcefully, and it was given under duress and threats.



6. The Committee observed that the statements recorded under Section 131 of the Income Tax Act, 1961 were the fulcrum of the extant case and these statements were disputed by the Respondent. Moreover, the Respondent retracted their statements within reasonable time. In absence of any documentary evidence with regard to the facts that the Respondent was controlling the companies / dummy directors and his involvement in providing accommodation entries and in view of retraction statements filed by the Respondent and Mr. Raju Roy, it cannot be stated that the Respondent was facilitating the evasion of tax by providing accommodation entries as alleged. Accordingly, the Committee decided to hold the Respondent Not Guilty of Professional Misconduct falling within the meaning of Clause (1) of Part II of Second Schedule and 'Other Misconduct' falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

**Conclusion: -**

7. Thus in the considered opinion of the Committee, the Respondent is **NOT GUILTY** of Professional Misconduct and 'Other Misconduct' falling within the meaning of Clause (2) of Part IV of First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

7.1 Accordingly, the Committee passed an Order for closure of this case under Rule 19 (2) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of cases) Rules, 2007.

Sd/-

(CA. NIHAR N JAMBUSARIA)  
PRESIDING OFFICER

[approved and confirmed through e-mail]  
(SHRI JUGAL KISHORE MOHAPATRA,  
I.A.S.(RETD.)), GOVERNMENT NOMINEE

[approved and confirmed through e-mail]  
(MS. RASHMI VERMA, I.A.S. (RETD.))  
GOVERNMENT NOMINEE

[approved and confirmed through e-mail]  
(CA. DURGESH KUMAR KABRA)  
MEMBER

Date: 26/10/2021

*Jyotika*

प्रमाणित सत्य प्रतिलिपि / Certified true copy

DDIT, Unit 4(3), Kolkata – Vs- Sandeep Kumar Sur

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover  
सहायक सचिव / Assistant Secretary  
शास्त्रालय नं. 061803 / Disciplinary Directorate  
The Institute of Chartered Accountants of India  
आइसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032