



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

DISCIPLINARY COMMITTEE [BENCH-I (2021-2022)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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 V. Srivijay, DDIT (Inv.), Unit-III (3), Direct Tax Building, Visakhapatnam,
-Vs-

CA. Praveen Kumar Jha (M.No.301167), Kolkata
[PR/G/241/2017-DD/250/2017-DC/964/18]

MEMBERS PRESENT:

CA. NIHAR N JAMBUSARIA, PRESIDING OFFICER

MS. RASHMI VERMA, I.A.S. (RETD.) (GOVERNMENT NOMINEE)

CA. DURGESH KUMAR KABRA, MEMBER

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 29.01.2021, the Disciplinary Committee was inter-alia of the opinion that **CA. Praveen Kumar Jha (M.No.301167)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clauses (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountant Act 1949.
2. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communications were addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 8th October, 2021.
3. The Committee noted that on 8th October, 2021, the Respondent was present through Video Conferencing mode. The Respondent confirmed receipt of the findings of the Disciplinary Committee. The Respondent made his verbal submissions on the findings of the Disciplinary Committee stating that certificates were signed by him based on invoices



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provided to him but failed to provide the proof of authenticity of such invoices. The Respondent assured the Committee that such mistake will not be happen again.

4. The Committee has considered the reasoning as contained in findings dated 29th January, 2021 holding the Respondent Guilty of professional misconduct vis-à-vis verbal representations of the Respondent on the findings of the Disciplinary Committee.

5. Keeping in view the facts and circumstances of the case, material on record and representations of the Respondent made before it, the Committee is of the view that the professional misconduct on the part of the Respondent is established and ends of justice can be met if reasonable punishment is given to him. Accordingly, the Committee ordered to **impose a fine of Rs.1,00,000/- (Rupees One lakh only) upon the Respondent i.e., CA. Praveen Kumar Jha (M.No.301167) to be paid within 3 month of receipt of the order. If the Respondent fails to pay the fine within 3 months, his name to be removed from the Register of Member for a period of One (1) month.**


Sd/-
(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

(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 : 05.02.2022
PLACE : DELHI

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


बिशु मथ ठापर / Bishu Math Thapar
कार्यकारी निदेशक / Executive Director
अनुशासनिक निदेशक / Disciplinary Director
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Neger, Shahdra, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – I (2020-2021)]

[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

Ref. No. PR/G/241/2017-DD/250/2017-DC/964/2018

In the matter of:

Shri V. Srivijay,
The Deputy Director of Income Tax (INV),
UNIT III (3), Room No.512, 5th Floor,
Direct Tax Building,
Double Road, MVP Colony,
Visakhapatnam – 530 0017

.....Complainant

Versus

CA. Praveen Kumar Jha (M.No.301167)

G-1, Ground Floor,
1-A, Vansittart Row,
Damodar House,
Kolkata – 700 001

.....Respondent

MEMBERS PRESENT (Through Video Conferencing):

Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee), Presiding Officer,
CA. G. Sekar, Member,
CA. Pramod Jain, Member

DATE OF FINAL HEARING : 29.01.2021

PLACE OF FINAL HEARING : Through Video Conferencing

PARTIES PRESENT (Through VC):

Complainant - Shri V. Srivijay, DDIT (Inv.), Unit III, Visakhapatnam

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. On the day of hearing held on 29th January, 2021, the Committee noted that the Complainant was present. The Respondent was not present. Since the previous hearing in the above matter was adjourned at the request of the Complainant and the Respondent, this time also, the Respondents was not present without any valid reasons, the Committee decided to continue with hearing ex-parte the Respondent in the matter. The Complainant explained the charges against the Respondent. The Committee also posed questions to the Complainant. After perusal of the documents on record and hearing the submission of the Complainant, the Committee decided to conclude the hearing in the above matter.

CHARGE IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-

2. As regard the charge, the Committee noted that the only allegation against the Respondent is that he has issued 16 certificates in Form 15 CB without verifying books of account and supporting documents and has charged Rs. 600/- per certificate. Further, it was alleged that it is also certified in 5 cases that source code of customized software was downloaded in his presence, however, no such customized software was ever downloaded in his presence as this fact can also be corroborated from statement on oath given by Sri Vaddi Mahesh under Section 132(4) of Income Tax Act, 1961 during income tax search proceedings.

3. The Complainant in his submissions stated that during the course of enquiries it was noted that substantial amounts from two bank accounts based in Visakhapatnam during the period 01.04.2015 to 31.03.2017 was transferred from India to countries like Hong Kong, China and Singapore ostensibly in the guise of import of customized software. On the basis of this information of tax evasion, a search and seizure action u/s 132 of the Income Tax Act was conducted in the residential premises of Vaddi Mahesh (Director of the Company), his father's residence and other business premises on 9th May, 2017. During the course of search, the residential premises of Vaddi Mahesh, sole statement was recorded from him u/s 132 (4) of the Income Tax Act wherein he categorically stated that the companies floated by him and his associates have not actually imported any sort of software from foreign companies. The Complainant stated that the Company floated by Vaddi Mahesh were remitting substantial amount of foreign exchange abroad in the guise of import of customized

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software. The fact that import of customized software was non-genuine was re-iterated many times by the director in his own statement.

4. Upon perusal of the submissions of the Respondent, the Committee noted that the Respondent in his submissions stated that he did the said certification work after verifying the invoices of four Companies for Rs. 300/- to 600/- each. After certifying some documents, he doubted the whole transaction and asked for whole downloading procedure but they (client/ Companies) refused to do so. Thus, he stopped certification but it was too late by that time. Further, the Respondent submitted that the said incident took place due to immaturity and lack of experience at inception of his career and suppression of fact by client / Companies. After knowing ill motive of clients, he has stopped working for these clients/Companies. The Respondent vide letter dated 18.03.2019 stated that he cannot disclose his defence as the criminal matter filed by CID is pending before the Hon'ble High Court of Visakhapatnam. The Respondent requested to keep the matter in abeyance till the conclusion of court matter.

5. On perusal of the record, the Committee observed that the Respondent has issued total 16 certificates in Form 15 CB wherein he certified total foreign remittance of Rs.25.66 Crore and no deduction of TDS was made from the amount remittance to outside India. The Committee also observed that the Respondent admitted mistake on his part and made attempt to take shelter under the defence that at the time of certification of Form 15CB, he was new to the practice and at the initial stage of his practice, he had very less work. The Respondent's submissions was on record that after certifying some documents, when he doubted the whole transactions and asked for whole downloading procedures, he was refused to provide the same.

6. Apart from above, the Respondent in his statement recorded u/s 131 of the Income Tax Act, 1961 admitted that he had certified Form 15CA and 15CB (Answer to question 9). Further, in answer to question no.11, the Respondent admitted that he has not verified books of accounts and downloading of software was not done in his presence. Only on the basis of Invoices, he had issued the certificates. Accordingly, the Committee of the view that the Respondent did not exercise due diligence while certifying Form 15CB and appears to have relied upon the information provided by the Company without verifying the relevant documents and information. Moreover, the Respondent wrongly certified that the software

was downloaded in his presence but in actual as admitted by the Respondent, the procedures of downloading was not done in his presence. In view of above, the Committee decided to hold the Respondent Guilty of professional misconduct falling within the meaning of Clauses (7), (8) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.


Conclusion:-

7. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clauses (7), (8) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

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

sd/-
(CA. G. SEKAR)
MEMBER,

sd/-
(CA. PRAMOD JAIN)
MEMBER

Certified to be true copy

Anubag Sharma
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032