

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/109/2018/DD-165/18/BOD/494/2018

CORAM:

**CA. Prasanna Kumar D., Presiding Officer (attended physically)
Smt. Rani Nair, (IRS, retd.), Government Nominee (through video conferencing)**

In the matter of:

**Shri Ram Singh,
428, East Mohan Nagar,
Amritsar – 143 001**

...Complainant

Versus

**CA. Ajay Gupta (M.No. 093909),
21-A, Krishan Nagar,
Lawrence Road,
Amritsar – 143 001**

...Respondent

**DATE OF FINAL HEARING : 24th December, 2021
PLACE OF FINAL HEARING : New Delhi / through video
conferencing**

PARTIES PRESENT:

**Counsel for the Complainant : Shri Deshbir Singh, Advocate
Respondent : CA. Ajay Gupta**

FINDINGS:

Charge Alleged:

1. The charges alleged against the Respondent is that he is habitual white collar criminal and runs a hoard of illegal activities besides being in practice. The Respondent is out on bail after being imprisoned and is still practising in the local Income Tax/ Excise/ Customs Office as well as running a customs clearance agency in the name of his wife. The Respondent is also running an illegal money lending business. The Complainant submitted that he filed following cases against the Respondent :

- a. FIR No. 118/2011 PS Chattiwind, Amritsar Rural under section 420 / 120-B IPC has been registered against him in the year 2011 for fraudulently selling a

property to a third party. The said fraud was committed by the Respondent despite of the fact that he was having professional relationship as a CA with the Complainant which amount to gross professional misconduct.

- b. The Respondent has been found accused and sent to jail (presently on bail) in FIR No. 2/2016 PS Sultanwind under section 420/465/4666/467/4671/448/120-B for forging a false agreement to sell a property, and helping in illegal possession of the said property.
- c. The Respondent has also been booked (under investigation) for fraud of Rs. 80 lakhs with the Customs Commissionerate, Amritsar. He was operating as a custom clearing agency and Logistics Company under different names. All his licenses for custom clearance on his name and on the name of his wife stands suspended/cancelled as on the date of extant complaint. There were numerous complaints against the Respondent while dealing in exports and imports from Pakistan for cement and allied goods working under the name and style of M/s. Gupta Freight Forwarders and Custom Clearing Agents and also his one firm in the name of his wife. The Respondent is also involved in bogus billing in cases pertaining to his clients engaged in the business of earth filling of NH14, Amritsar-Pathankot highway and his clients at Raja Sansi Road dealing in defence supplies.
- d. The Respondent was also involved in a multi crore racket of false billing for a leading politician of Himachal Pradesh in connivance with his local intermediaries and engineers & a businessman for which he was awarded besides a huge amount of money, a trip to Hong Kong and Macau. The detail can be verified from his passport and travelling history and the persons who as accomplices travelled with him.
- e. The Respondent boasts of large chunks of properties in Amritsar particularly at Loharka Road area where it is said he has purchased land in acres at counter payments. The sources of funding may kindly be verified. The Respondent and his father are actively involved in money laundering/lending at exorbitant interest rates without any license to lend money. The same can be verified through him and his family's bank accounts.
- f. The Respondent is also a habitual offender and blackmailer. He blackmails his clients and most of his clients complain that he threatens to get them involved through tax officials as he claims to be hand in glove with the Department.
- g. The Respondent has filed frivolous complaints against the Complainant in various Government Departments and local offices including the Income Tax Department in order to pressurize and harass the Complainant to withdraw the cases which are registered against him after thorough investigations by the competent government agencies. All frivolous complaints filed by the Respondent against the Complainant have been considered by the concerned Departments and the same were found to be false and baseless.

The Board noted that at the Prima Facie stage, the Respondent was held *prima facie* held Guilty with respect to the allegation relating to various FIRs

filed against him primarily on account of non-submission of his defence and not guilty in respect of other allegations. Accordingly, the Board examined the conduct of the Respondent in that respect only.

Brief of Proceedings held:

2. During the hearing held on 24th December 2021, the Counsel for the Complainant and the Respondent were present before the Board through video conferencing, they confirmed that they have read and understood the contents of the modalities and protocols of e-hearing and follow them. Since there was a change in the composition of the Board since the last hearing, the Board gave an option to the parties to the case as to whether they would like to have a De -Novo enquiry or continue from the last proceedings to which they stated that they would like to continue from the last proceedings. Thereafter, the Counsel for Complainant and the Respondent made their respective detailed submissions before the Board. The Respondent was examined by the Board. On consideration of the submissions and documents on record, the Board decided to conclude the proceedings in the case with the direction to the Respondent to provide the following with a copy to the other party to the case for their comments thereon, if any:

To the Respondent :

1. To provide the current status of FIR no.2 dated 5th January 2016 alongwith the copy of the Orders passed therein, if any.

Thus, the decision on the conduct of the Respondent was kept reserved by the Board.

In compliance of the same, the Respondent on 25th December, 2021 submitted status report of Police Investigation Report in which Akhraj Report (Akhraj is an Urdu Word which Means Cancellation) alongwith its English translation for perusal of the Board of Discipline. The Respondent also submitted Court Status Report 03.06.2019 in which JM-has mentioned that ASI Ashwani Kumar has presented Cancellation Report in FIR No.2 dated 05.01 2016 u/s 420/465/467/468/469/471/448/ 120-B IPC, P.S. Sultanwind Amritsar.

Thereafter, the Board at its meeting held on 11th February 2022, on consideration of the documents and submissions on record, decided on the conduct of the Respondent.

Brief Submissions of the parties:-

(A) Respondent :

3. The Respondent in his defence, inter-alia, submitted as under:-
 - a. The Complainant has approached the Premier body just to pressurize the Respondent to settle the land dispute which is pending before the Local Courts for the last 7 years.
 - b. The Complainant has not approached the ICAI with clean hands as he is defaulters of many Banks to the tune of Rs.35 crores and all his assets have even been possessed by the Banks under SARFAESI proceeding. He is having litigations with various Banks, his Real Brother, his son, and other

family members. He usually gets FIR registered against various persons due to his High Police Connection and political connections, then settle the issue by blackmailing and taking huge money. It is because of these connections, Banks could not take the possession till 2019 under SARFAESI Act as his account was marked NPA in 2008-2009. He is also facing many enquiries before Income Tax Authorities and Enforcement Departments.

- c. Regarding the allegations mentioned in the complaint, the subjected property was transferred on the basis of Registered Power of Attorney, which was duly registered with Registrar, where under full powers / rights and the authority to deal with the said property / land in whatsoever manner were executed in favour of the attorney, the applicant. The Complainant has also executed Registered WILL in favour of the Respondent and he is hiding true facts. The ownership was also upheld by local SDM-1 Office at Amritsar and subsequently the same was also upheld by even ADC-Amritsar.
- d. The Complainant had further not disclosed and had deliberately hidden the fact that he had received full and final payment as proceeds and settlements of the said property and has also executed the proper receipt in the presence of witnesses. The Complainant has deliberately withheld these Orders / facts and documents to mislead the Disciplinary Directorate. Regarding the Trial of FIR – the charges had been quashed by the Hon'ble Court of Additional Session Judge-Amritsar and the Hon'ble Court has remanded the file to the trial Court to take further necessary action vide Order dated 12/04/2018. The Complainant had deliberately withheld the Order which was passed on 12/04/2018 just to mislead the Deputy Secretary, whereas he has submitted certain other documents in his letter dated 03/10/2018.
- e. Regarding the second FIR No.2/2016 PS, Sultanwind, the Respondent's name is not mentioned in the FIR. This FIR was again land dispute of the Complainant with his real brother Krishnan Deep Singh. This is the habit of the Complainant firstly, he enter in to the sale agreement with buyers, then he refuses to put forth that agreement and with his Police and Political connections, lodged the FIR by frivolous complaints. However, this FIR also stand cancelled during investigations and discharge has already been filled.
- f. Regarding the Show Cause Notice issued by the Customs Department to the Company has already been concluded and no enquiry is pending as on date and the Respondent was not ever made any party by the Department in any case.
- g. Regarding other allegations, all the allegations are baseless, oral allegations and without any facts, figures without any evidence, but a cooked story.

4. The Respondent submitted the copy of decision in Civil Suit no. 616 dated 26.02.2020 in his favour and against the Complainant wherein the Complainant has filed suit for declaration to the effect that sale deed dated 13.04.2011 allegedly executed by defendant no.2 Ajay Kumar Gupta in favour of defendant no.1 Raghav Mehra, in relation to the property measuring 1 Kanal 12 Marla (968 Sq. yards). Property bearing khasra no.23//22, 23//21/2 Min situated in the area of Village Rakh Jheeta, Tehsil & District Amritsar-II, as per jamabandi for the year 2000-2001; is illegal, null and void document, creating no interest whatsoever of any nature in favour of defendant no.1 and also Suit for Permanent Injunction restraining defendants from forcible dispossessing the plaintiff from aforementioned land and from alienating in any manner, any portion of the above

detailed land measuring 968 sq. yards, on basis of sale deed dated 13.04.2011 allegedly executed by defendant no.2 Ajay Kumar Gupta in favour defendant no.1 Raghav Mehra.

The Complainant was issued the notice dated 07/12/2020 issued by Bank of Baroda under SARFAESI, 2002.

(B) Complainant:

5. The Complainant in his submissions, inter-alia, submitted as under:-
- a. Since the case regarding land dispute is already under Trial in the Civil Courts, Amritsar and the Complainant has full faith in the judiciary, there is no question of indulging in pressure tactics.
 - b. It is denied that the said Power of Attorney was registered under/full power/rights and the authority to deal with the said property/land in what so manner in favour of the Respondent. As the complainant was recuperating from a serious accident and was on wheel chair at that time and trusted the Respondent as a professional advisor, the same was got registered under the influence and false assurances of the Respondent to enable us avail bank loan and even got signed blank documents for that purpose. The same were further used to prepare forged receipts by the Respondent. The FIR already placed on record by the complainant duly shows the thorough investigation and opinion of DA Legal on the said matter on which FIR was rightly lodged. It is denied that the ownership was upheld by local SDM-I office at Amritsar and subsequently same was also upheld by even ADC, Amritsar. Rather in the said Orders of SDM-I, Amritsar and ADC the only findings which were given was that the only purpose of the Revenue Department is to maintain the record registered with the sub-registrar and in the matters with regard to the ownership and the disputed registered documents, the jurisdiction lies with the Civil Courts. Accordingly, Civil Suit was also filed by the Complainant, the Complainant in which an Order of status quo was also granted by the Hon'ble Court of Sh. Jagdeep Sood, Civil Judge Jr. Div., Amritsar, looking into the merits of the case. The said Civil Suit is still pending at the stage of defense evidence in the Court of Ms. Ambika Sharma, Civil Judge Jr. Div., Amritsar. It is further denied that the Complainant has not disclosed and had deliberately hidden the fact that he received full and final payment as proceeds and settlement of the said property. Whereas reiterating the true facts, the said receipts were made by way of forgery by the Respondent and accordingly an FIR was also lodged against the Respondent and the same is pending for Trial in the Hon'ble Court.
 - c. The Complainant denied that the Charges have been quashed by the Hon'ble Court of Additional Session Judge Amritsar. Rather the Respondent has misrepresented the Order dated 12.04.2018 passed by the Court of Hon'ble Additional Session Judge Amritsar. It is clearly mentioned in the said Order that the Ld. Trial Court has not taken into consideration the fact of forgery, so the same is remanded back for the purpose of framing the charges keeping in mind the forgery committed by the Respondent. The relevant paras of the said Order is reproduced as under:-

"if the report under section 173 of Cr.PC is gone into, the it is found that during the investigation the allegations against accused with regard to the forging of receipts after execution of the sale deed by Ajay Gupta in favour of Raghav Mehra"

"Even in the report under section 173 of Cr.PC it has come that these receipts vide which payment has been shown to be received by Ram Singh, are forged document, but while framing charges the trail Court has not taken into consideration this fact".

"Whereas the perusal of the charge sheet reveals that charge under section 120-B of the IPC against both the accused has been framed".

"Even though there are allegations of forgery of the receipts, vide which payment are shown to have been received by the complainant, but while framing the charge, the Court has not taken into consideration the fact of forgery and who committed forgery. So the trial Court has committed illegality while framing charge and the charge framed against accused is not sustainable in the eyes of law. So order dated 02.02.2018 passed by the trial Court of framing charge under section 420/120-B of IPC is set-aside and matter is remanded to the trial Court to pass fresh order after going through the Court under section 173 of Cr.PC, evidence collection during investigation by investigating agency and not only to consign itself to the offences under which the FIR has been registered."

From the above reproduction of the Order dated 12/04/2018 it is evident that the Charges have never been quashed by the Hon'ble Additional Session Judge but has only remanded back the same to the Ld. Trial Court so that Charges of forgery as proved during investigation can also be framed on the Respondent .

- d. It is denied that in the second FIR No.2/2016, P.S Sultanwind, Amritsar the name of the Respondent is not mentioned. It has been duly mentioned in the contents of the FIR that the Respondent was the marginal witness in the forged and fabricated agreement to sell and further the D.A legal while giving his opinion for registration of FIR duly mentioned that the main accused has succeed to forge the said agreement to sell in connivance with the marginal witnesses, Respondent being one of the marginal witness. It is further denied that the said FIR stands cancelled further denied discharge has already been filed. Rather the unlawful inquiries made by the police officials due to high political connection of the Respondent are under probe and neither any cancellation report has been filed in the Hon'ble Court nor has it been accepted by any Court.
- e. It is denied that the show cause notice issued by Custom Department to the company of the Respondent has already been concluded further denied no inquiry is pending as on day had not ever been made party by the department in any case. The Respondent has concealed the fact that in the said inquiry not only the department is conducting criminal proceedings against the

Rs.5,60,000/- as a part payment on 02/04/2011 and both parties agreed on the date of sale deed on 02/05/2011.

- f. Sh. Varinder Singh S/o Sh. Ravall Singh resident of Nirankari Colony, Fatehnagar Churian, has signed on the said agreement to sell as a witness.
- g. General Power of Attorney dated 11/04/2011 in which Complainant executed the said document in favour of the Respondent measuring area of 1 Kanal and 12 Marlas.
- h. On 13/04/2011 on the basis of the above mentioned General Power of Attorney the Complainant had executed a Sale Deed in the favour of Sh. Raghav Mehra of land measuring 1 Kanal 12 Marlas.

The parties have also placed on record the copy of agreements in Punjabi language (alongwith its English translated certified true copy) dated 02/04/2011 and 11/04/2011 with respect to payments made to the Complainant and receipt signed by the Complainant in lieu of receipt of the consideration amount for the property in question.

7. In light of the facts and documents placed on record, the Board observed that apart from the professional association there were certain transactions executed between the Complainant and the Respondent with respect to certain properties during the course of which criminal proceedings were initiated by the Complainant against the Respondent which are at the primitive stage of pending Trial before the Court of Competent Jurisdiction. However, there is no conclusive evidence on record to show that the Respondent misused his professional association with the Complainant or that he was involved in certain illegal activities bringing disrepute to the profession.
8. Thus, having regard to the attendant circumstances, the evidences and submissions on record, the Board is of the considered view that the Respondent is Not Guilty of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

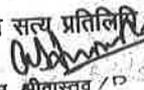
CONCLUSION:

9. The Board of Discipline, in view of the above, is of the considered view 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)

DATE: 11th February, 2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy

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