

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/96/2016/DD/118/2016/BOD/560/2020]**

**CORAM:**

**CA. Prasanna Kumar D., Presiding Officer (attended physically)**  
**Mrs. Rani Nair (IRS, Retd.), Government Nominee (attended through VC)**

**In the matter of:**

**Shri Hardeep Singh Sethi**  
WZ-256A, Second Floor,  
Inder Puri  
New Delhi- 110012

.....Complainant

**Versus**

**CA. Krishna Kumar Gupta (M. No. 098005)**  
EA-54, Ground Floor  
Inder Puri  
New Delhi -110012

.....Respondent

**DATE OF FINAL HEARING : 10<sup>th</sup> January, 2022**  
**PLACE OF HEARING : New Delhi/Through video conferencing**

**PARTIES PRESENT (through VC):**

**Complainant : Shri Hardeep Singh Sethi**  
**Respondent : CA. Krishan Kumar Gupta**

**FINDINGS:**

**Brief background of the case:**

1. The Respondent was engaged for providing the chartered accountant services to the Complainant since 2015. The Respondent filed the original Income Tax return of the Complainant on 14th July, 2015 for the AY 2015-16 with a net income of INR 4,24,519/- which was his real income while the total taxable income being INR 2,69,070/- .He also stated the fact that the Respondent has involved in a dispute with him for various bogus transactions along with several other persons in order to extort money and snatch his immovable property. Thereafter, in the month of December, 2015, the Respondent filed the Complainant's revised income tax return pertaining to the AY 2015-16 on 28<sup>th</sup> December, 2015 without obtaining his instructions and filed the wrong income tax return stating the income amounting to 86 Lacs. The Complainant tried to change the password of his Income Tax Account after the dispute with the Respondent but the same was rejected upon several requests as the e-mail upon which the income tax account was functional was controlled by the Respondent. He received a message on 4<sup>th</sup> April, 2016 at 07:47 p.m. from the Income Tax Department stating that *the ITRV of PAN No. MAMXXXXXX4R for Assessment year*

2015-16 has been received on 31.03.2016 and after the receipt of the said message, the Complainant made a written complaint about the same to the Income Tax Department and to the concerned police station.

**Charge Alleged :**

2. The charge alleged against the Respondent is that the Respondent misused the Income Tax account credentials of the Complainant for filing a forged revised income tax return in order to cause wrongful loss to the Complainant raising a wrongful demand of tax for an amount of INR 16,14,799/- in the alleged revised income tax return.

The Board on consideration of the Prima Facie Opinion of the Director (Discipline) was of the view that the role of the Respondent needs to be examined further through enquiry since in the revised return of the Complainant filed for the A.Y. 2015-16, the e-mail id kkgupta04@gmail.com appearing on the acknowledgement for ITR V dated 28th December 2015 was the same as used by the Respondent to file his written statement with the ICAI. Accordingly, the Board did not concur with the reasons given against the charge(s) and thus, did not agree with the Prima Facie Opinion of the Director 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 and decided to proceed under Chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

**Brief of Proceeding held:**

3. During the hearing held on 10<sup>th</sup> January 2022, the Complainant and the Respondent were present before the Board through video conferencing. At the time of last hearing held in the case on 24th December 2021, the Board had directed the parties to the case to provide the following:-

**The Complainant:**

- a) To provide the trail of events on the Income Tax portal using his login credentials for the Assessment Year 2015-16.

**The Respondent:**

- a) To provide the copy of email received from the Income Tax Department to his e-mail id for change of password/for filing revised return/for any other purpose with respect to the Complainant's Income Tax case.

In response thereto, the Respondent submitted that after browsing through his email, he could not find any email from the Income Tax Department pertinent to the Complainant. However, the Complainant did not submit his response as he expressed his lack of knowledge to access the details and required professional help to seek the same.

On consideration of the documents and submissions on record, the Board decided to conclude the proceedings in the case with the direction to the Complainant to provide the following taking the help of his CA and also provide a copy of the same to the Respondent to provide his comments thereon, if any:

**The Complainant:**

- a) To provide the trail of events on the Income Tax portal using his login credentials for the Assessment Year 2015-16.
- b) Details of change of Login credentials including the Methodology used for such change.

Accordingly, the decision on the conduct of the Respondent was kept reserved by the Board. However, no reply was received from the Complainant.

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

**Submissions of the Respondent:**

4. The Respondent in his defence, inter-alia, stated as hereunder:-
  - a. The disputes have already been settled in Delhi Mediation Centre, Patiala House Courts, New Delhi in the office of Mediation In-charge, Sh. Sunil K. Aggarwal, New Delhi via Mediation No. 1838/17 dated 27.11.2017 in CS No. 58806/16. The Respondent specifically referred to point no.4 of the said Settlement.
  - b. The Respondent did not file the Revised Income Tax Return of the Complainant on 28th December, 2015. He had no clue how the email id: kkgupta04@gmail.com appeared on the revised return.
  - c. There is no dispute, or any litigation pending for the aforesaid complaint.

**Observations of the Board:**

5. The Board noted that as per the Complainant both of his original and revised income tax return pertaining to A.Y 2015-16 were filed by the Respondent on 14<sup>th</sup> July 2015 and 28<sup>th</sup> Dec 2015 respectively. The Board also noted that the Complainant, thereafter, again got his revised Income Tax return filed through another CA on 22<sup>nd</sup> April 2016 with the originally reported figures. The Board also observed that the IP address from which original income tax return of the Complainant and the IP address from which the revised income tax return of the Complainant was filed were different from each other.
  - 5.1. The Board also noted the Complainant received a message on 4th April, 2016 at 07:47 p.m. from the Income Tax Department stating that the ITRV of PAN No. MAMXXXXXX4R for Assessment year 2015-16 has been received on 31.03.2016.
  - 5.2. The Board also noted that despite being specifically asked to provide the trail of events on the Income Tax portal using his login credentials for the Assessment Year 2015-16 and also to provide details of change of Login credentials including the Methodology used for such change, the Complainant failed to provide anything in this regard. The Complainant could not place on record any evidence to establish that the I.P address i.e. 122.180.168.238 from which the revised Income Tax Return of the Complainant was filed on his behalf for the A.Y 2015-16 was under the use of the Respondent. On the other hand, the Respondent submitted that after browsing through his email, he could not find any email from the Income Tax Department pertinent to the Complainant.
  - 5.3. The Board also perused the copy of the Settlement Order passed in Mediation Cell, Patiala House Courts, Delhi dated 27/11/2017 in Mediation Number 1838/2017 in CS No. 58806/16 and observed as under:
    - “1. The plaintiff (Complainant herein) remains the absolute owner in possession of the property in dispute bearing no. WZ-256A, Ground Floor & First Floor, Inderpuri, New Delhi-110012 and the defendants do not claim any right, title or interest therein.
    2. That the loan taken by the plaintiff from the defendant(Respondent herein), in lieu whereof the deal of property had been entered, has since been settled by the parties and now no amount whatsoever under any nomenclature is to be exchanged between them.
    3. That the parties having filed rival cases for protecting their respective interests are no more interested in pursuing them. The same may therefore be disposed off by the concerned courts as having been fully and finally, mutually settled and satisfied.

4. That the plaintiff has filed a complaint against the defendant no. 1 before The Institute of Chartered Accountants of India, Delhi Head Office. The same be deemed to have been withdrawn by him for all purposes.

5. That the parties undertake not to initiate any issue or litigation before any authority or court in respect of the subject matter of the aforementioned cases. All their matters related to and ancillary to the same shall be deemed to have been withdrawn in view of settlement."

5.4 The Board observed that the Complainant failed to provide any concrete evidence to show that the Respondent was involved in filing of his revised income tax return for the Assessment Year 2015-16. Also, since the mobile number of the Complainant had been recorded in the Income Tax records, any change in his login account was also within his knowledge. The Board also noted that apart from the professional association, the Complainant and the Respondent were associated with each other in respect of certain property transactions and on the one hand, the Complainant entered into a settlement with the Respondent whereby he agreed to withdraw the instant complaint whereas on the other hand, he denied before the Board to have agreed to withdraw the instant proceeding against the Respondent without providing any documentary evidence to show the involvement of the Respondent in filing the revised income tax return for the Assessment Year 2015-16. Accordingly, the Board held that the Respondent is Not Guilty in respect of the charge alleged.

**CONCLUSION:**

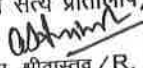
6. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **NOT Guilty** of Other Misconduct falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountants Act 1949 read with section 22 of the said Act. Accordingly, the Board passed Order for 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: 11<sup>th</sup> February, 2022**

प्रमाणित सत्य प्रतिलिपि / Certified true copy

  
आर. एस. श्रीवास्तव / R. S. Srivastava  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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