



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-I (2022-2023)]]

[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
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT
OF CASES) RULES, 2007.

In the matter of:

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

CA. Prasanta Kumar Roy Barman (M. No. 013905), Kolkata
[PR/G/242/17/DD/251/17/DC/1068/2019]

MEMBERS PRESENT:-

CA. ANIKET SUNIL TALATI, PRESIDING OFFICER
SHRI JUGAL KISHORE MOHAPATRA, IAS (RETD.), (GOVERNMENT NOMINEE)
SHRI PRABHASH SHANKAR, IRS (RETD.), (GOVERNMENT NOMINEE)
CA. PRITI PARAS SAVLA, 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, the Disciplinary Committee was inter-alia of the opinion that CA. Prasanta Kumar Roy Barman (M. No.013905) (hereinafter referred to as the Respondent) was GUILTY of professional misconduct falling within the meaning of Clauses (7), (8) & (9) of Part I of the Second Schedule to the Chartered Accountants 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 opportunities of being heard in person / through video conferencing and to make written & verbal representation before the Committee on 23.08.2021, 01.06.2022, 05.07.2022 and 26.08.2022. The hearing fixed for 23.08.2021, 01.06.2022 and 05.07.2022 were adjourned at the request of the Respondent on medical ground.

3. The Committee noted that on the date of hearing held on 05th July, 2022, the Respondent was not present and there was no response from the Respondent about his non-appearance before the Committee. However, it is noted that the Respondent's wife vide her letter dated 13.08.2022 requested for adjournment of hearing due to health condition of Respondent. She stated that the Respondent is suffering from the severe throat infection, chest congestion and other ailments. In this regard, the Committee observed that while granting adjournment in last hearing on 05.07.2022, the Respondent was directed to submit his written submissions in case where he is not able to appear before the Disciplinary Committee and it was also informed to him that no adjournment would be entertained in future. But the Respondent neither filed his written



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statement / arguments nor appeared before the Disciplinary Committee. In view of above facts, the Committee decided to proceed ahead with the hearing ex-parte the Respondent.

4. The Committee considered the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis written submissions of the Respondent. The Committee observed that while seeking adjournment through letter dated 18.06.2021, the Respondent also made his preliminary submissions on the findings of the Disciplinary Committee which are in brief as under:-

i) He was not well when hearings in the matter had been fixed and this fact was informed to the Institute.

ii) He has signed 'Form 15 CB' after asking for proper clarification and scrutinized the valid papers provided by 3 Chartered Accountants of the Company who were directly or indirectly in touch with the Company and having a legal contract with the organization.

iii) He was never in touch with the Company and he has never visited their office because he was physically not quite movable at that point of time also. He had no financial transaction with the Company.

iv) All the three Chartered Accountants who were authorized persons of the Company have passed away in due course of time. The Respondent stated that he has gone through all the documents whichever were required to be verified as per law and after verification, he found them correct.

v) His digital signature was mis-utilized without his knowledge and information because the Respondent was not so much technologically sound person. The bank was required to check the authentication of Form 15 CB and investigate the matter.

5. Keeping in view the facts and circumstances of the case, material on record including preliminary written submissions of the Respondent on the findings of the Committee, the Committee is of the view that the professional misconduct on the part of the Respondent is established, and the ends of justice would be met if reasonable punishment is awarded to the Respondent in this case. Accordingly, the Committee ordered that name of the Respondent i.e. CA. Prasanta Kumar Roy Barman (M.No.013905) be removed from the Register of Members for a period of 2 (two) years and a fine of Rs.50,000/- (Rupees Fifty Thousand Only) be imposed upon the Respondent to be paid within 90 days of receipt of the Order. If the Respondent fails to pay the fine within the stipulated period, his name be removed from the Register of Members for an additional period of 6 (Six) months.

Sd/-
(CA. ANIKET SUNIL TALATI)
PRESIDING OFFICER,

Sd/-
(SHRI PRABHASH SHANKAR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

DATE: 07/02/2023

Order - CA. Prasanta Kumar Roy Barman (M.No.013905)

प्रमाणित सत्य प्रतिलिपि / Certified MEMBER

मुकेश कुमार मिश्रा / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासनसूचक निदेशक / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान, दिल्ली-110032
The Institute of Chartered Accountants of India
ICAI Bhawan, Vishwas Nagar, Shaheed, Delhi-110032

Sd/-
SHRI JUGAL KISHORE MOHAPATARA, I.A.S.
(RETD.), (GOVERNMENT NOMINEE)

Sd/-
(CA. PRITI PARAS SAVLA)

CONFIDENTIAL

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/242/17/DD/251/2017/DC/1068/2019

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. Prasanta Kumar Roy Barman (M.No. M.No.013905),
140A/4, NSC Bose Road,
PO Regant Estate,
Kolkata – 700 092

.....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 in previous hearing, the Respondent was not present and this time also, the Respondent was not present without any valid reasons, the Committee decided to continue with hearing ex-parte the Respondent in this 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. The allegation leveled against the Respondent is that he has issued 254 Certificates in Form 15CB without verifying books of account and supporting documents which has been accepted by the Respondent in his statement recorded on oath u/s 131 of the Income Tax Act, 1961. The Respondent also certified in 20 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 the 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 Sri 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 Sri 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 Sri Vaddi Mahesh were remitting substantial amount of foreign exchange abroad in the guise of import of customized

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, it is noted that the Respondent in his submission stated that his signature has been misused on Form 15 CB. He stated that he did not certify or sign any Form 15CB for making remittances and the matter is sub-judice and he has intimated to CID to find out the person who has signed all such Forms using his digital signatures and e-mail id.
5. On perusal of the documents on record, the Committee observed that the Respondent has issued total 254 certificates in Form 15 CB wherein he certified total foreign remittance of Rs.398.17 crore and no deduction of TDS was made from the amount remittance to outside India. The Committee also observed that the Respondent denied to have certified Form 15CB and stated that forgery has been done in his name. It is seen that the Respondent's digital signature was appended on Forms 15CB and he also accepted in his statement on oath u/s 131 of the Income Tax Act, 1961, that he had issued such Forms on verbal assurance of Mr. Sushil Agarwal, Mr. Sonu Agarwal and Mr. Shekhar Mishra, without verifying the nature of activities performed by the alleged Companies. The Complainant in his Rejoinder pointed out that if the Respondent did not issue the 15CB certificates then why he stated that he issued 100-150 15CB certificates at the time of recording his sworn statement recorded on 09.05.2017 duly signed by him.

5.1 It is further noted that while calling for a copy of complaint filed by the Respondent before the Competent Authority regarding falsely certifying Form 15CB under his stamp and signature and current status of the same, the Respondent stated that he had filed a complaint to the CID who in turn had taken suitable action, but the same cannot be disclosed by him as advised by his lawyer since the said judicial matter is under enquiry. Hence, in absence of any substantial piece of evidence in support of his contention, the aforesaid submission cannot be relied upon. In view of above, the defence taken by the Respondent that his signature has been misused is not acceptable at all and appears to be an afterthought act on the part of the Respondent. Accordingly, the Committee is 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 failed to bring on record that software was downloaded in his presence as certified by him. 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:-

8. 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

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