

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2022-2023)]

[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.

File No. : [PR/381/17-DD/43/18-DC/1259/2020]

In the matter of:

Shri Mandeep Singh Chatwal

Mandeep Towers
Opposite Amarpreet Hotel,
Flat no. 4/18/34P,
Jaina Road
AURANGABAD 431005

.....Complainant

Versus

CA. Mayur Kailas Bamb (M.No. 161637)

M/s. Mayur Bamb & Associates,
Flat no. 4, Goodmens Residency,
Near Bombay Boring Works,
Gajanand Mandir Road,
Garkheda Parisar,
AURANGABAD 431005

.....Respondent

MEMBERS PRESENT:

1. CA. (Dr.) Debashis Mitra, Presiding Officer (Present in person)
2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)
3. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
4. CA. Cotha S Srinivas, Member (Present in person)

DATE OF FINAL HEARING : 31.10.2022 (Through Physical/Video Conferencing)

PARTIES PRESENT : None

CHARGES IN BRIEF:-

1. The Committee noted that in the present case the Director (Discipline) in his prima-facie opinion has held the Respondent Prima-facie Not Guilty of Professional and/or Other Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 on the charge that the Respondent signed/certified Income tax returns of the Complainant and his mother as true copies (Page C-7 to C-14 of Prima-facie opinion) without any authority and same were submitted by the Complainant's wife before the Hon'ble JMFC Court, Aurangabad in a Domestic Violence case bearing no. 211/2016.
2. The matter was accordingly placed before the Board of Discipline for its consideration. The Board of Discipline on consideration of the same, along with the Complaint, Written Statement, Rejoinder and Additional Documents on record, noted that the Respondent relied upon the letter from the wife of the Complainant authorizing him to provide the certified income tax returns of the Complainant and his mother and thus, the alleged act of certification by the Respondent was without due authorization.
3. Accordingly, the Board did not concur with the reasons given against the charge(s) and accordingly, did not agree with the prima facie opinion of the Director that the Respondent is not guilty of Professional misconduct falling within the meaning of clause (7) of part I of the Second Schedule to the Chartered Accountants Act, 1949 and decided to refer the matter to the Disciplinary Committee under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

BRIEF FACTS OF THE PROCEEDINGS:

4. On the day of the final hearing held on 31st October 2022, the Committee noted that none of the parties, i.e. the Complainant and Respondent were

present. The Committee noted that this case was fixed earlier on multiple times on the following dates which are as under: -

I	18.10.2021	Fixed and adjourned
II	13.07.2022	Fixed and adjourned
III	23.08.2022	Fixed and adjourned to provide last opportunity to parties
IV	19.09.2022	Fixed and adjourned to provide last opportunity to parties

The Committee noted that neither the Complainant appeared before this bench nor had informed about his presence before the Committee. The Committee noted that the only response from the Respondent in respect of his presence in hearings was made vide his email dated 12th July 2022 (in response to a notice sent for meeting scheduled on 13th July 2022) wherein he submitted that he had to get admitted to hospital for medical treatment of kidney stone and attached his medical certificates. The Committee noted that no further communication was received from him with respect to the subsequent hearings by the Committee. The Committee, looking into the continuous absence of both the parties and after considering all papers available on record, decided to conclude the matter ex-parte.

FINDINGS OF THE COMMITTEE

5. The Committee noted that the Respondent with regards to the charge against him through his submission given at prima-facie stage had inter alia submitted as under: -
 - i. The certified copy of the Income Tax Return was given to the wife of the Complainant and not to a stranger.
 - ii. There was nothing to trigger any suspicion about their relationship inter-se. He was not aware of any dispute between the couple and the real motive of the wife of the Complainant (para 6.4 of the Prima-facie opinion).

- iii. If such matters are taken up as a disciplinary case, it would be impossible for any member to carry on his practice. After all, many things are required to be done in good faith.
 - iv. There was no flaw in the certificate as such. He had not certified any wrong ITR. After seeing the acknowledgement, he verified the correctness on the relevant site. There is no complaint as to the contents of the certificate.
 - v. That on 14th December 2017 Mrs Pooja Kaur Chhatwal (Complainant's Wife) approached him and requested him to certify the true copy of the Income Tax Return of her husband (i.e., Complainant) and her mother-in-law (i.e., Amresh Kaur Chhatwal) for the years 2014-2017.
 - vi. That Complainant's wife i.e. Mrs Pooja Kaur Chhatwal also submitted a letter for the said assignment (Page W-7 of the Prima-Facie Opinion). He was informed that a loan from some bank was to be taken and, in good faith, after due verification, he certified the Income Tax Returns of the Complainant and his mother for A.Y 2014-15 to 2017-18.
 - vii. He did not charge any fees.
 - viii. Nothing arose as suspicion for him as such attestation is often required for the purpose of bank loans, Visa etc.
6. The Committee, while considering the documents on record, noted that the Respondent had merely relied upon the letter from the wife of the Complainant authorizing him to provide the certified income tax returns of the Complainant and his mother and thus, the alleged act of certification by the Respondent was without due authorization by the Complainant. Hence, the Respondent, without the consent and knowledge of the Complainant, signed/certified the Income Tax Returns of the Complainant and his mother as true copies.
7. The Committee noted that although there was no dispute regarding the authenticity of the ITR, yet, the Respondent was duty bound to inform and accordingly take consent/ authorization from the Complainant and his mother while signing/certifying the ITR as true copies.

8. The Committee also noted that despite reasonable opportunities were extended to the Respondent, he never appeared before it. The Committee, in absence of any defence of the Respondent on the observations of the Board of Discipline, was of the view that the Respondent had nothing further in his defence. Accordingly, the Committee in its considered opinion holds the Respondent Guilty for not exercising due diligence while conducting his professional duties.

CONCLUSION

9. In view of the above findings, the Committee in its considered opinion hold the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

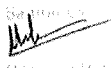
sd/-
(CA. (Dr.) DEBASHIS MITRA)
PRESIDING OFFICER

sd/-
(SMT RANI NAIR, IRS (RETD.)
GOVERNMENT NOMINEE

sd/-
(SHRI ARUN KUMAR, IAS (RETD.)
GOVERNMENT NOMINEE

sd/-
(CA. COTHA S. SRINIVAS)
MEMBER

DATE: 06.01.2023
PLACE: NEW DELHI

सही प्रतिलिपि सिद्ध है।
Certified to be true.

श्रीमान श्री रवि शंकर (Ravi Shankar) सिन्हा
कार्यकारी अधिकारी, प्रशासनिक विभाग, आयकर विभाग, दिल्ली
अनुसूचित (अनुसूचित) प्रशासनिक विभाग, आयकर विभाग, दिल्ली
इसिस्टेंस (अनुसूचित) प्रशासनिक विभाग, आयकर विभाग, दिल्ली
The Institute of Chartered Accountants of India
आईसीएआर का कार्यालय, शांति नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032



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

[PR/381/2017/DD/43/2018/DC/1259/2020]

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.

[PR/381/2017/DD/43/2018/DC/1259/2020]

In the matter of:

Shri Mandeep Singh Chatwal

Mandeep Towers

Opposite Amarpreet Hotel,

Flat no. 4/18/34P, Jaina Road

AURANGABAD 431005

.....Complainant

Versus

CA. Mayur Kailas Bamb (M.No. 161637)

M/s. Mayur Bamb & Associates,

Flat no. 4, Goodmens Residency,

Near Bombay Boring Works,

Gajanand Mandir Road,

Garkheda Parisar,

AURANGABAD 431005

.....Respondent

MEMBERS PRESENT:

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)
2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)
3. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
4. CA. Sanjay Kumar Agarwal, Member (Present in person)
5. CA. Sridhar Muppala, Member (Present in person)

DATE OF MEETING : 16.03.2023 (Through Physical/ Video Conferencing Mode)

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 6th January 2023, the Disciplinary Committee was inter-alia of the opinion that **CA. Mayur Kailas Bamb (M. No. 161637)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountant Act, 1949.

2. The Committee noted that the charge against the Respondent was that the Respondent signed/certified the Income tax returns of the Complainant and his mother as true copies without



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

[PR/381/2017/DD/43/2018/DC/1259/2020]

any authority, and the same were submitted by the Complainant's wife (Mrs. Puja Chatwal) before the Hon'ble JMFC Court, Aurangabad, in a Domestic Violence case bearing no. 211/2016.

3. The Committee noted that the Respondent was present through video conferencing mode from his place. He further submitted that Mrs. Puja Chatwal (wife of the Complainant) asked him to certify these ITR's for loan purposes. He also stated that his work was limited to ITR certification and that he was unaware of any cases pending before any court and was under the impression that such certification was used for bank loan purposes. The Respondent further mentioned that he certified only the acknowledgement of ITR after checking on Income Tax website.

4. The Committee noted the oral submissions of the Respondent on record. The Committee noted that there is no complaint as to the contents or any flaw in the alleged certificate. The Committee noted that there is no evidence that the Respondent performed the certification work with mala fide intent or with the intent of causing the Complainant any wrongful loss. The Committee noted that a professional is required to respect the clients' confidentiality and not part with sensitive financial information without knowledge / approval of the client.

5. Accordingly, the Committee, looking into the gravity of the charge *vis-a-vis* submissions of the Respondent before it decided to give minimum punishment to the Respondent.

6. Therefore, keeping in view the facts and circumstances of the case, the material on record, and the submissions of the Respondent before it, the Committee ordered that the Respondent CA. Mayur Kailas Bamb (M.No. 161637), be reprimanded.

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

sd/-

(SHRI ARUN KUMAR, I.A.S. RETD.)
GOVERNMENT NOMINEE

sd/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

sd/-

(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 13th MAY, 2023

PLACE: NEW DELHI

Shri Mandeep Singh Chatwal, Aurangabad -Vs-

प्रमाणित सत्य प्रतिलिपि / Certified true copy

xute
मुकेश कुमार मित्तल / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासनात्मक विदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आइ सी आई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032