

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/102/2019-DD/119/2019/BOD/602/2022]**

**CORAM (present in person):**

**CA. Prasanna Kumar D., Presiding Officer  
Ms. Dolly Chakrabarty (IAAS, Retd.), Government Nominee  
CA. (Dr.) Raj Chawla, Member**

**In the matter of:**

**Ms. K.S. Aruna Vasumathi  
1/254 A, R. S. Nagar Patel Street,  
Jalladianpet  
Chennai- 600100**

**.....Complainant**

**Versus**

**CA. R. Seshadri (M.No.205989)  
160A, 1<sup>st</sup> Floor,  
Dr. Rajarathinmam Road  
Kattor, Ram Nagar  
Coimbatore-641009**

**.....Respondent**

**DATE OF FINAL HEARING : 5<sup>th</sup> December, 2022  
PLACE OF FINAL HEARING : New Delhi/through video conferencing**

**PARTIES PRESENT(through video conferencing):**

**Complainant : Ms. K. S. Aruna Vasumathi  
Counsel for the Complainant : Advocate Guru Prasad  
Respondent : CA. R. Seshadri  
Counsel for the Respondent : CA. C. V. Sajan  
1st Witness : Shri M. Venkateswaran  
2nd Witness : Shri J. Ravi Kumar  
3rd Witness : Shri D. Ranganathan**

**FINDINGS:**

**BRIEF BACKGROUND OF THE CASE:**

1. The Complainant had worked with M/s Infosys Technologies Pvt. Ltd. and then quit the job in 2011. Thereafter, she never logged in her Income Tax account since then. In 2017, the Complainant attempted to login to her Income Tax account in order to link her PAN with her Aadhaar Number, but she was unable to do so because the password had been changed. After many follow-ups with Income Tax Department, the Complainant finally succeeded in logging into her online account on the Income Tax website and discovered that the primary and secondary contact details in the said account, such as mobile number and email id, had been changed. she had never met the Respondent and he accessed her account by hacking her user id and password. She never engaged the Respondent to handle her income tax transactions. The Complainant lodged a complaint with Cyber Crime, Chennai City and after conducting preliminary inquiry, the police registered an FIR in the year 2018.

**CHARGE ALLEGED:**

2. The Complainant alleged that the Respondent, a practising auditor, in connivance with her husband gained unauthorised or illegal access to the Complainant's online Income Tax login maintained with the Income Tax Department, and thereby her Income Tax returns for the Assessment Years 2009-10, 2010-11, 2011-12, and 2012-13, as well as Form-16 for the Financial Year 2010-11, were filed by her husband before the Sub-Court in Tambaram in the divorce proceedings. The Respondent has caused huge mental agony to the Complainant as well as caused great damage to the image of the audit profession.

**BRIEF OF PROCEEDINGS HELD:**

- 3.1 At the time of hearing held in the case on 22<sup>nd</sup> November 2022, the Complainant and the Respondent along with their Counsels 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. The Respondent and the Complainant were put on oath. The charges alleged against the Respondent were taken as read with the consent of the parties to the case. On being asked by the Board as to whether the Respondent pleaded guilty in respect of the charges alleged against him, he replied in negative and his Counsel made detailed oral submissions on the charges alleged against the Respondent. The Counsel for the Complainant also made his submissions to substantiate the

allegations alleged against the Respondent. On consideration of the documents and submissions on record, the Board adjourned the hearing in the case with the following direction to:

The Respondent:

- (a) To provide the latest contact details of Shri J. Ravi Kumar, Shri D. Ranganathan and Shri M. Venkateshwaran so that they can be summoned as a witness at the next date of hearing.

The Office:

- (a) To summon Shri J. Ravi Kumar, Shri D. Ranganathan and Shri M. Venkateshwaran as a witness at the next date of hearing.

3.2 Thereafter, at the time of hearing held in the case on 5<sup>th</sup> December 2022, the Complainant and the Respondent along with their Counsels were present before the Board through video conferencing. Shri J. Ravi Kumar, Shri D. Ranganathan and Shri M. Venkateshwaran were present as a witness before the Board. Thereafter, the Board permitted the said witness(es) to be present before it individually through video conferencing. The Counsel for the Respondent and the Complainant and the Board posed certain questions to the said witness(es) individually which were replied by them. Subsequently, the witness(es) were discharged. Thereafter, the Counsel for the Complainant as well as the Respondent made their respective submissions before the Board. On consideration of the submissions and documents on record, the Board concluded the proceedings in the case.

**BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:**

**(A) Respondent:**

4. The Respondent in his written submissions, inter-alia, stated as under:

- (a) Observation of the DD in Para 10 of the PFO that *"further in her online account, in primary contact details column, the email id of the Respondent's firm has been mentioned /updated and further in her ( complainant) secondary contact details column*

also the personal email ids and mobile number of the Respondent was updated and it was also mentioned there that such contact details belonged to self-i.e. the Complainant" disregarding the fact that the Respondent or his staff members had no role in the incident, is just an insinuation against the Respondent without any evidence or basis, and in violation of principles of natural justice.

- (b) Observation of the DD in Para 10 of the PFO that "it is also an admitted fact that with the generation of new password and after having access to the Complainant's login on the Income Tax Department portal, the Respondent's personal details like copy of the Income Tax Returns for the AY 2009-10 to 2012-13 and Returns form 16 for the FY 2010-2011 were retrieved and deposited to sub court Tambaram by her Husband in the matter of their ongoing divorce proceeding in such Court" is misinterpretation of the facts presented in the written statement of the Respondent.
- (c) Facts about the confessions through Affidavits made by three persons who abused the Complainant office without his knowledge, was presented in the written statement of the Respondent, with the intent of proving the innocence of the Respondent.
- (d) The Respondent has never admitted his or his office's involvement in the whole episode", except stating that computer systems in the office of the Respondent were abused by a representative of one client by exploiting the access facility available to Respondent's clients.
- (e) Observation of the DD in Para 10 that "the Respondent has brought on record copy of emails 17th Nov 2014 auto generated by the Income Tax Department at the time of change in password/login credential of the Complainant i.e. DONOTREPLY@incometaxindiaefiling.gov.in to the email id of the Respondent's firm i.e. rsassociates1987@gmail.com" cannot become any basis to assume that the Respondent or his staff was aware of the mischief played by D. Ranganathan, representative of a client with the computer systems in the office of the Respondent.
- (f) The office of the Respondent also had a system of creating dedicated email addresses with a standard pattern to be available in the office for the staff, for the above purpose. There was a standard operating procedure available as template displayed, on how to assign contact information to PAN so that there are no variances regardless of staff who does the job.

- (g) There were as many as 58 email addresses related to the office of the Respondent that were in use as the IT Web portal had limited, the use of one email address to 10 PAN. The Respondent denied that receipt of message in one of the email ids of the office of the Respondent did not make any case that the Respondent or his staff members were aware of the mischief played by Mr. D. Ranganathan. It is a matter of record that Mr. D Ranganathan has admitted to his misdeeds and owned up full responsibility of the incident. List of email ids used by the office of the Respondent is attached.
- (h) The last line in Para 10, that *"the said email is addressed to the Complainant"*, is mischievous and implicating. A standard mail communication by Tax Department to the contact details of the PAN holder will be addressed to the PAN holder only, regardless of the fact that the contact details are of self or delegates. The mail received into a mail id that was wrongfully used by a third person without the knowledge of the Respondent or his staff, cannot constitute any evidence against the Respondent. The Respondent denied that the email received from the Tax Department into the mail address rsassociates1987@gmail.com on 17th Nov 2014 pertaining to the PAN of the Complainant is any evidence against the Respondent, because the Respondent or his team was not aware of the abuse of the said email by Shri D. Ranganathan.
- (i) Observation in Para 10.4 that *"the auto generated mails dated 17th November 2014 received on that email id (as mentioned in Para 10 of this PFO) must have been received by all the staff of the Respondent including Respondent"* is conjecture and not a fact. The Respondent was not in the office during the hours when the incident happened. The Respondent never uses the common mail id of the office for his official purposes. The personal PC of the Respondent was not open when the incident happened as he was not in the office. The common email id 's of the office is not configured on the personal devices (mobile phone, laptop etc.) of the Respondent. These facts would prove that the observation of the Respondent was not based on facts, but merely on surmises.
- (j) The Respondent did not access the contentious email id as wrongfully presumed by the DD. OTP or Pin Number for change of password was not received by Respondent to his mobile number 9843023474 or his Email id seshadriauditor@yahoo.co.in which is clearly evident from auto generated communication received from ITD. i.e. Communication is received only to D. Ranganathan mobile number 99944 67754 and

one of dedicated client communication ITD email address rsassociates1987@gmail.com only.

- (k) Contents in Para 10.5 that "the Respondent in his letter dated 26th April 2019 (W-4) to this Directorate for seeking extension of time to file his written statement called the allegation of the complainant as Serious allegation against him and needed the time for self investigation in the matter and further he stated in his written statement dated 15th May 2019 that on receipt of this Directorate's letter dated 15th April 2019 first time he got to know the matter and immediately he started making enquiry against the culprits" are truths that were presented to express the anguish of the Respondent over the false allegation and sincerity of purpose in the attitude of the Respondent to find the mischief or facts behind the complaint.
- (l) Remarks in Para 10.5 that "later, it is noticed that even after he considered such allegation as serious one and called them as culprits, he did not file any legal complaint against any of them" is a baseless insinuation without understanding accurate facts.
- (m) Since the Complainant had already initiated a complaint, and an FIR had been registered on 15-9-2018 as FIR 157/2018 at the office of City Crime-II Chennai. The Respondent was an accused in that FIR. The natural course of action was to take steps to prove innocence of the Respondent to the investigators. Any further justification with the intent of shifting the allegation to third parties should have been done before the investigators only.
- (n) When the DD asked questions on complaints filed by the Respondent, the Respondent filed a complaint with the Dy Police Commissioner (Crime) Coimbatore on 26th June 2019, explaining all facts that were presented to the Director - Discipline and requesting for further enquiry and action against the culprits. But the only further action possible was to combine the complaint filed by the Respondent with the records of FIR 157/2018. Accordingly, the police, after their enquiry transferred the case file to the Office of Dy Commissioner -City Crime -II, Chennai on 5th July 2019.
- (o) After the receipt of communication dated 5th July 2019, the Respondent further moved a writ petition with the High Court of Chennai for registration of FIR against actual culprits.

(p) The Honourable Madras High Court discharged the Respondent for the very same matter for which Trial proceedings were pending at Judicial Magistrate No.1 , Alandur Court Chennai case ref No. CC NO.876 of 2020.

(q) The Respondent provides the copy of the following:-

- i. List of Client ITD communication / e-filing mail ids created with their authorization used in the office accessible to staff members for verification purpose of e-mail communication.
- ii. Copy of police investigation report.
- iii. Web copy of the Madras High Court Order

**(B) COMPLAINANT:**

5. The Complainant in her submissions, inter-alia, stated as under:

- (a) The Respondent is involved in alleged misconduct as if the Respondent owns something, then he should take responsibility for the same. In this case, he owns his office and therefore, it is his duty to take utmost care of the office and files.
- (b) It is admitted fact that in the office of the Respondent, D. Ranganathan with the help of the Respondent, gained illegal access into the Income Tax Account of the Complainant. Without the consent of the Respondent, no such act could be possible. Hence, it is right to presume that connivance of the Respondent in gaining illegal access to the Complainant Income Tax Account. For the submission presented in paragraph 4 of the written statement, those confessions are forced out of the three people. Especially, the confession of D. Ranganathan was obtained forcefully under threat by the Managing Director of the Covai Seenu and Company partner. In paragraph 5, it is clearly mentioned that only "strict warning" from the Managing Director, therefore, such affidavit evidences are obtained under coercion and such persons who provided such affidavits are not trustworthy persons.
- (c) It is an admitted fact that illegal access to the Complainant's Income Tax Account was gained through the Respondent's office computer in his office. By such admission, the Respondent was far more negligent and did not show any interest or care for his client's accounts and privacy by allowing third person to have free access to his computer.

- (d) It is admitted by the Respondent that he owns 58 email ids and uses the same for his client's communication with the Income Tax department. But also contends that he doesn't follow up that email id. Therefore, it is a bounden duty of the person who owns something to keep that thing safe from others. The contention of the Respondent that he does not use those 58 email ids is a story fabricated to evade the present process.
- (e) For the contentions in paragraph 10 of the Respondent's statement, the Respondent needs to be physically present in office to consent for the said unauthorised access to the Income Tax Account of the Complainant. At the Respondent's consent, anybody under him or third parties with his connivance could have performed the unauthorised access to the Complainant's account. The contention of the "Respondent is not required by law to prove his innocence" is mockery on the present proceedings.
- (f) The Respondent failed to pursue the remedy as per the order of the Hon'ble Madras High Court. If he had pursued the so-called wrongdoers then to some extent it might be believable that the Respondent may not have been involved in the office.
- (g) As per Indian Law, mere affidavits are not admissible evidence. All petition and complaint letters are made only to save his skin from the present proceedings as an afterthought.
- (h) As per the contention of the Respondent, D. Ranganathan is account-in-charge of the Respondent's client. But the "list of clients" submitted by the Respondent do not have the business name of the Covai Seenu and company in which D. Ranganathan is allegedly working. Further, no document was produced to show the connection between D. Ranganathan and his client's business.
- (i) Though the Respondent may come up acquitted from the criminal proceedings, it will not absolve him from the disciplinary proceedings.
- (j) The Complainant approached to file an appeal against the Order of the Hon'ble Madras High Court order in CrI.R.C.No. 642 of 2022 before the Hon'ble Supreme Court of India [SLP CrI Diary no. 36863/22]. She has a very good case to succeed before the Hon'ble Supreme Court of India as the Hon'ble Madras High Court did not pass the said Order based on the true factual perspective. The weight of evidence is different for Criminal cases and disciplinary proceedings. Despite the present discharge of the Respondent

from the Criminal case, the Board can proceed independently based on its Prima Facie Opinion.

**OBSERVATIONS OF THE BOARD:**

6. On perusal of the documents and submissions on record, the Board observed that the Respondent explained the following background behind the alleged act:
  - (a) The act had been carried out by Mr. D. Ranganathan, an accountant of Respondent's client (M/s Covai Seenu & Company). He was not connected in any way to the Complainant's husband. Since the uncle of the Complainant's husband, Mr. J. Ravi Kumar happened to be the colleague and friend of Mr. D. Ranganathan, who used to come to the Respondent's office as representative of his client and that Mr. D. Ranganathan only on the request of Mr. J Ravi Kumar did all this operations on his computer system and in his premises without the Respondent's knowledge as he was not present in his office that day. He came to know about all such incident only after receiving the Complaint from this Directorate on 15<sup>th</sup> April, 2019 only.
7. The Board also noted that the Respondent brought on record the confession in the form of notarised Affidavits made by three persons namely Mr. D. Ranganathan, Mr. J. Ravi Kumar and Mr. M. Venkatweran who took the full responsibility of the unauthorised act of accessing the account of the Complainant on Income Tax Department's website abusing the infrastructure of the Respondent's office without his knowledge.

The Board noted that in the Affidavit of M. Venkateshwaran, it was stated as under :

*"Though I was having **copy of her PAN card, I did not have her password required to access her Income tax account (emphasis provided)**. My maternal uncle Ravi Kumar told me and he would try to get it with the help of his friend and colleague Mr. Ranganathan who is working as Accounts in charge in the said M/s Covai Seenu And Company.....he said that his friend Ranganathan has copied the illustrative examples kept in the Auditor's office of his company for other clients password retrieval purpose and extracted the said password by using the forgot password option. Further I was told that he did this exercise without the knowledge of Auditor R. Seshadri or any of his staff members.*

*I confirm that myself only accessed into her income tax account on 25th December 2016 to ascertain the working and income status of my wife Ms. Aruna. I further declare that I never shared the password of Mrs. Aruna with anybody or used the particulars gathered from her IT account as narrated above, for any other purpose than for filing in the court divorce proceedings."*

The Board noted that in the Affidavit of J. Ravi Kumar, it was stated as under:

*"My sister's son Ventakeswaran got married to Aruna Vasumathi and was living in Chennai. There was a family dispute going on in between them in the Sub.Court of Tambaram, Chennai. During November 2014, he approached me and asked my help to secure the details of the Income tax return filed by his wife to produce them in the court. to establish her income status. Further he said, "if can get her password retrieved, I can download the Income tax Return filed details from her income tax Account in the ITD website".*

*a) As I was aware of the interest and the knowledge in the Income Tax related matters possessed by my friend said D. Ranganathan as he is doing private accounting work also, sought his help to extract the password for the income tax account standing in the name of said Aruna Vasumathi without disclosing the actual purpose of it. Even though there was initial hesitation from the said Ranganathan, he yielded finally to the constant pressure exerted by me.....*

*I was told that he went to the office of R. Seshadri in his absence during morning hours on 17.11.2014 and extracted the password of the account standing in the name of Aruna Vasumathi, using the "Forgot Password option" without the knowledge of the Auditor Mr. R. Seshadri or any of his staff members. He subsequently gave the details of the extracted password to me and in turn I gave it to my nephew Venkateshwaran. My nephew Venkateshwaran accessed the income tax account of his wif Aruna Vasumathi and downloaded the particulars required for the purpose of filing them in the Sub. Court, Tambaram, Chennai."*

The Board noted that in the Affidavit of Mr. D. Ranganathan, it was stated as under:

*"as I did not have the required information(secret question for retrieval of password, earlier year IT filed acknowledgement number or Bank account Number details of her) except the*

PAN card copy, for getting into the account of said Aruna Vasumathi, I opted for the forgot password option with change of contact details option to retrieve the password. In the primary contact details, I entered my personal phone number 9994467754 as the primary contact number and the email id as rsassociates 1987@gmail.com, the default email id which is commonly used for the clients income tax communications at Auditor's office and kept open during that time of office hours by Auditor office staff. It was the usual practice at the office of R. Seshadri to enter the official email id (seshadriauditor@yahoo.co.in) and official phone number (9843023474) of the Auditor R.Seshadri, as the default secondary contact details for the clients while creating profile for them of the clients for the purpose of receiving communication from income tax department during the initial stages of the online filing of income tax returns introduced by the income tax department.

I referred the client profile creation manual kept in the excel worksheet and entered the official email id of R. Seshadri, [seshadriauditor@yahoo.co.in](mailto:seshadriauditor@yahoo.co.in) and the phone number 9843023474, as the secondary contact details without understanding the implications. Generally, OTP or Pin change requests never go to the phone or the email id mentioned in secondary contact details and it will only go to the phone or email id mentioned in primary contact details. So, I thought it will not come to the notice of Auditor R. Seshadri or any of his staffs at any point of time.....

By utilising the said OTP and PIN received as above, I succeeded in my attempt to retrieve the password for the account in the name of Aruna Vasumathi and handed over the same to Mr. Ravi Kumar”

From the trail of events and aforesaid Affidavits brought on record, it is evident that Mr. D Ranganathan had committed this act using the PAN number which had been provided by the Complainant's Husband. Therefore, it is evident that the copy of the PAN Card of the Complainant was with her husband only and that was one of the documents which had been prima facie used by Mr. D. Ranganathan to cause change in the particulars of the Complainant on the Income Tax website. The Complainant contended that these Affidavits were obtained by the Respondent from the concerned persons under “strict warning”/coercion, however, the said stand of the Complainant is not acceptable since the

said persons appeared in person before the Board and confirmed the content of their respective Affidavits.

8. The Board also noted that the Complainant contended that D. Ranganathan is account-in-charge of the Respondent's client as per his admission. But the "list of clients" submitted by the Respondent does not have the business name of the Covai Seenu and company in which D. Ranganathan is allegedly working. Further, no document was produced to show the connection between D. Ranganathan and his client's business. In this regard, the Board was of the view that a Chartered Accountant renders a variety of services to its clients like audit, certification, e-filing with ROC/Income Tax Department, etc and all its clients may not avail the services of e-filing with Income Tax Department for the purpose of which the Respondent had given the list of email addresses related to his office which were in use for the purpose of Income Tax web portal.
9. The Board further noted that the Respondent filed a Revision against the Order of the learned Magistrate No. 1, Alandur, dated 18.04.2022 in CrI.M.P.No. 1475 of 2020 in CC No.876 of 2020. The Board perused the copy of the Order dated 5<sup>th</sup> August 2022 passed by the Honorable High Court of Judicature at Madras discharging the Respondent from the matter for which proceedings were pending before Judicial Magistrate No. 1 Alandur Court, Chennai (case ref no. CC No.876 of 2020) and noted the contents as under:

*"the Petitioner was called upon by the Respondent for a preliminary enquiry stating that a Complaint had been lodged by the De-facto Complainant namely, Mrs. K. S. Aruna Vasumathi under Section 66 r/w 43 (j) of Information Technology Act, 2008 against the Petitioner. The De-facto Complainant's case is that her personal income tax account was hacked by the Petitioner and her personal contact details were changed unauthorizedly without her knowledge and consent by the Petitioner.*

*"It was submitted that downloading the income tax details, for the purpose of producing before the court, would not amount to fraudulent or dishonest action, but, the same has to be considered vis-à-vis while considering the case of the first accused (namely Venkateswaran). However as far as the petitioner is concerned, even taking the materials produced along with the final report on its face value, it does not give rise to*

*any suspicion that the petitioner No. 4 (herein referred as Respondent) has fraudulently or dishonestly done any act which are enumerated under section 43 of the Act and therefore is no material to frame charge against the petitioner No. 4.....On the materials on record, it is clear that in the course of the conflict between the husband and wife which escalates and manifests into several briefs and dockets both civil and criminal, the instant complaint under the Information Technology (Amendment) Act, 2008 is also lodged. And without any prima facie motive or material, as to any fraudulent or dishonest intention or any act which is perse violative of Section 43 of the Act, the petitioner/accused No.4 has been dragged into the case."*

The Board was of the view that in Criminal proceedings the commission of offence is required to be proved beyond reasonable doubt whereas in Disciplinary proceedings the misconduct can be proved having regard to the preponderance of probabilities .However, in the instant case, there is neither any direct nor any circumstantial evidence to show that the Respondent was involved in changing the login particulars of the Complainant on the Income Tax website or he had any knowledge of his office infrastructure being used for the said purpose. Accordingly, the Board decided to hold the Respondent Not Guilty in respect to the charge alleged.

**CONCLUSION:**

10. 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 the First Schedule to the Chartered Accountants Act, 1949. 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)

Sd/-  
Ms. Dolly Chakrabarty (IAAS, retd.)  
(Government Nominee)

sd/-  
CA. (Dr.) Raj Chawla  
(Member)

DATE: 10<sup>th</sup> February 2023

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

  
नीलम पुंडीर / Neelam Pundir  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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