



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

[PPR/P/011/16-DD/45/INF/17/BOD/573/2020]

ORDER UNDER SECTION 21A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

In Re:-

CA. Deepak Aggarwal (M.No. 092865)
of M/s. Deepak Kamala & Associates, Delhi in Re.... ..Respondent

[PPR/P/011/16-DD/45/INF/17/BOD/573/2020]

MEMBERS PRESENT (in person):

CA. Rajendra Kumar P., Presiding Officer
Ms. Dolly Chakrabarty (IAAS, retd.), Government Nominee

Date of Final Hearing: 17th March, 2023

1. The Board of Discipline vide Findings dated 10th February 2023 was of the view that CA. Deepak Aggarwal (M.No. 092865) is 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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Deepak Aggarwal and communication dated 1st March 2023 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 17th March 2023.
3. CA. Deepak Aggarwal made his written representation vide letter dated 14th March 2023. He also appeared before the Board through video conferencing on 17th March, 2023 and made his oral representation thereat. While making his oral representation, he requested the Board to take a sympathetic view in the matter.
4. CA. Deepak Aggarwal, in his written representation reiterated the submissions made on 04th December, 2022 and 19th December, 2022 and at the time of hearing. He referred to the Order dated 18th February, 2021 of Special Judge (P.C. Act)(Cbi05), Rouse Avenue District Court, New Delhi and stated that the following facts have been overlooked by the Board:



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

[PPR/P/011/16-DD/45/INF/17/BOD/573/2020]

- a) Para 72 (read with Para 61-71) of the Order dated 18th February, 2021 on registration of FIR and other documents.
 - b) Para 125 and 130 of the Order dated 18th February, 2021.
 - c) Para 126 of the Order dated 18th February, 2021 – on the involvement of Ms. Parul Garg in the Income Tax matter and her conversation with Mr. P.R. Meena.
 - d) Para 128, 129 and 130 of the Order dated 18th February, 2021- Telephonic conversation of Sh. Krishan Kumar and Sh. P.K. Garg.
 - e) Para 131 to 135 of the Order dated 18th February 2021- revealing the status of telephonic conversation of the Respondent, Sh. Krishan Kumar, Sh. P.K. Garg and Ms. Parul Garg.
 - f) Para 136 of the Order dated 18th February, 2021: - revealing the conspiracy of Sh. Krishan Kumar and Sh. P.K. Garg against the Respondent read with page No D-414, D-501 and D-503 of the Prima Facie Opinion. The Ld. CBI judge also ignored that the name of the Respondent was put in the mouth of Mr. P.R. Meena.
 - g) Para 142 to 145 of the Order dated 18th February, 2021: - revealing the conspiracy of Sh. Krishan Kumar and Sh. P.K. Garg against the Respondent.
 - h) Para 147 and 148 of the Order dated 18th February, 2021: - revealing the conspiracy of Sh. Krishan Kumar and Sh. P.K. Garg hatched against the Respondent.
 - i) Evidence recorded by the Ld. Special Judge (P.C. Act) (CBI05) in its Order dated 18th February, 2021 and the negative circumstances which the Respondent faced at the time of visit of CBI to his office was ignored/overlooked by the Ld. Judge and Hon'ble Board of Discipline that led to the Respondent to accept the bag from the Complainant to be given to Mr. Meena. The Respondent was tortured, threatened of dire consequences by the CBI team that he will be falsely implicated in the matter, if he did not follow the directions/instructions of the CBI team, which can be demonstrated from Para 72 (read with Para 61-71) of the Order dated 18th February, 2021 that the name of the Respondent was not there initially.
5. The Board has carefully gone through the facts of the case and also the oral and written representation of CA. Deepak Agarwal.
6. The Board was of the view that due cognizance of the submissions and documents on record had been taken by the Board while arriving at its Findings. Further, as per the Findings of the Board as contained in its report, it is clear that telephonic conversation took place between the Complainant and Sh. P.R. Meena for negotiating the bribe amount for further settlement and also indicated that Sh. P.R. Meena did not want to accept the bribe money directly and he further referred the Complainant to the Respondent for the



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

[PPR/P/011/16-DD/45/INF/17/BOD/573/2020]

same. There was telephonic conversation between the Respondent and the Income Tax official also. The bribe amount lying below the table of the Respondent was recovered and put back in the same bag from which the Complainant took it out and the same was handed over to the Respondent. Subsequently, the Respondent had gone to the ITO office to hand over the bribe amount. Telephonic conversation was also sent for Forensic Voice Examination wherein the voice has been confirmed to be the probable voice of the Respondent.

The Charge Sheet had been placed before the CBI Court, wherein Order dated 18th February 2021 had been passed with the following observations:

“it has come in the evidence of PW-2 and PW-3 that Sh. Deepak Agarwal had accepted the bribe amount of Rs. 3.5 Lakhs from the complainant for handing over to Sh. P.R. Meena.....Mere acceptance of the bribe amount of Rs. 3.5 Lacs by Sh. Deepak Agarwal from Shri Krishan Kumar makes him conspirator. It is well known that conspiracies are hatched in darkness and direct evidence is seldom possible. The acceptance of bribe amount by Sh. Deepak Agarwal from the complainant is the important evidence for proving his role as co-conspirator. He knew that the proceedings of Shri Krishan Kumar were pending before Sh. P.R. Meena which were not yet finalized. Therefore, acceptance of bribe and assuring that it will be handed over to Sh. P.R. Meena makes Sh. Deepak Agarwal also a co-conspirator. Sh. P.R. Meena had demanded the bribe from Sh. Krishan Kumar but directed him to pay the same to Sh. Deepak Agarwal. This bribe amount was accepted by Sh. Deepak Agarwal for further making payment to Sh. P.R. Meena. Therefore, the offence of conspiracy between Sh. P.R. Meena and Sh. Deepak Agarwal stands proved.”

The Board thus observed that it has been effectively highlighted in the Order itself, which was brought in by the Respondent himself that the Respondent acted as a co-conspirator/ facilitator for handing over the bribe amount to Sh. P.R. Meena on behalf of Shri Krishan Kumar. The Board observed that the Respondent portrayed that he is basically a victim of the circumstances and was not aware that he is being made a part of conspiracy. The Respondent mentioned that he took that money from Shri Krishan Kumar for CA. Parul Garg at her behest. However, the said contention of the Respondent is not acceptable as the Respondent himself is a Chartered Accountant and he is expected to exercise his prudence not only in the exercise of his professional duties but also while dealing with his clients. When the amount was being offered and when he was asked to carry the amount to the Income Tax official, he could have easily refrained from that, but he failed to do so. The



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

[PPR/P/011/16-DD/45/INF/17/BOD/573/2020]

Board was of the view that offering bribe to a Public Servant to perform public function is a serious offence and the Respondent in the instant case in the circumstances narrated above has acted as a co-conspirator/facilitator for offering bribe to Sh. P.R. Meena, Income Tax Officer for clearing scrutiny assessment for AY 2013-14 of his client, Shri Krishan Kumar which clearly points out at his misconduct. Such an action on the part of the Respondent is clearly unbecoming of a Chartered Accountant. The Board was also of the view that the circumstantial evidence clearly suggest that the Respondent himself became a conduit for handing over the bribe which is an activity prohibited by law and thereby has certainly brought disrepute to the entire Profession. Accordingly, **CA. Deepak Aggarwal** was held 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.

7. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Deepak Aggarwal** and keeping in view his oral and written representation before it, **the Board decided to remove the name of CA. Deepak Aggarwal (M. No. 092865) from the Register of Members for a period of 1 (One) month and also imposed a Fine of Rs.1,00,000/- (Rs. One Lakh only) upon him.**

Sd/-


CA. Rajendra Kumar P.
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, retd.)
(Government Nominee)

DATE: 19th April 2023

प्रमाणित सत्य प्रतिलिपि / Certified true copy


मुकेश कुमार मिश्र / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासनालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

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. : [PPR/P/011/16-DD/45/INF/17/BOD/573/2020]

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: RE

CA. Deepak Aggarwal (M.No. 092865)

M/s Deepak Kamala & Associates, Delhi
B-3, 203, Perna Complex
Subhash Chowk,
Laxminagar,
DELHI-110092.

.....Respondent

DATE OF FINAL HEARING : 19th December, 2022

PLACE OF FINAL HEARING : New Delhi

PARTIES PRESENT (through video conferencing):

Respondent : CA. Deepak Aggarwal

Counsel for the Respondent : CA. Sandeep Manaktala

FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1. Shri G Bairwa Superintendent of Police, CBI, Anti-Corruption Branch, and New Delhi (hereinafter referred to as "Informant") mentioned that the Respondent was caught red-handed along with Shri P. R. Meena, the Income Tax officer (ITO) while the bribe amount was being accepted by him. To the effect, an FIR bearing no. RC-DAI-2016-A-0003 dated 24-02-2016 was also registered against the Respondent along with the Income Tax

Buse

Officer. The Informant also mentioned that the Respondent was arrested by the CBI on 24-02-2016 and was produced before the Spl. Judge, Patiala House Courts, Delhi on 25-02-2016. The Hon'ble Court granted Police remand for two days till 27-02-2016. Thereafter, the Respondent was further remanded to judicial custody till 14-03-2016.

CHARGE ALLEGED:

2. The Respondent was caught red-handed along with Shri P R Meena, the Income Tax officer (ITO) while the bribe amount was being accepted by him. To the effect, an FIR bearing no. RC-DAI-2016-A-0003 dated 24th February 2016 was also registered against the Respondent along with the Income Tax Officer.

3. **BRIEF OF PROCEEDINGS HELD:**

a) At the time of hearing held in the case on 22nd November 2022, the Respondent alongwith his Counsel was present before the Board through video conferencing and they confirmed that they have read and understood the contents of the modalities and protocols of e-hearing and follow them. The Respondent was put on oath. The charges alleged against the Respondent were taken as read with his consent. 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 before the Board. The Respondent was examined by the Board. The Respondent made a request to summon CA. P. K. Garg (close relative of Shri Krishan Kumar and the majority partner in the firm in which the Respondent was a partner), CA. Parul Garg (who represented the client Shri Krishan Kumar in the Income Tax proceedings) and Shri Krishan Kumar (who was the client of the firm in which the Respondent was a partner and Complainant before the CBI) as a witness before the Board. On consideration of the documents and submissions on record, the Board adjourned the proceedings in the case with the following directions:

- i. To call Shri P.K. Garg, Ms.Parul Garg, and Shri Krishna Kumar as a witness.
- ii. To the Respondent to provide his further written statement, if any, on or before 2nd December 2022 and to provide the latest contact details of Shri Krishan Kumar so that he can be summoned as a witness at the next date of hearing.



- b) Thereafter at its meeting held on 05th December 2022, the Board noted the Respondent had submitted his further written statement and two witness(es) were present before it through video conferencing. Thereafter, the Board permitted CA. P.K. Garg to be present as a witness before it through video conferencing. The Counsel of the Respondent examined the said witness. The Board also posed certain questions to the witness which was replied. Subsequently, the Board permitted Shri Krishan Kumar to be present as a witness before it through video conferencing. The Counsel of the Respondent examined the said witness(es). The Board also posed certain questions to the witness which was replied by him. Subsequently, both the witness(es) were discharged. Thereafter, the Counsel for the Respondent on account of his ill-health sought some more time to make his final oral and written submissions in the case. Looking into the facts of the case, the Board acceded to the request of the Respondent and accordingly, the hearing in the case was adjourned.
- c) Thereafter at its meeting held on 16th December 2022, the Board noted that the Respondent further sought time to make his final oral and written submissions in the case. The Board acceded to the request of the Respondent and granted him an opportunity to make his final oral and written submissions in the case. The Respondent further requested for a copy of the Notes of Hearing held in the case on 22nd November 2022. The Board directed the office to provide a copy of the same to the Respondent. Accordingly, the hearing in the case was part heard and adjourned to 19th December 2022.
- d) Thereafter at its meeting held on 19th December 2022, the Respondent along with his Counsel was present before the Board through video conferencing. The Respondent made his final written submissions in the case. The Board gave an opportunity to the Counsel for the Respondent to make his oral submissions before it. Upon consideration of the submissions and documents on record, the Board concluded the hearing in the case.

BRIEF SUBMISSIONS OF THE RESPONDENT:

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

BKS

- a) The Respondent pointed out certain deficiencies in formation of Prima Facie Opinion by the Director(Discipline):
- i. Reference is drawn to correspondence dated 29th August, 2017 filed by the Respondent after the request of the Respondent was not acceded by the Director(Discipline).The Director(Discipline) did not draw the correct perceptive and conclusion from the written statement.
 - ii. Director(Discipline) overlooked an important aspect that the evidentiary value of statements under Section 161 Cr.P.C are not substantive evidence and are of less value as comparing it with Section 164 Cr.P.C. The rationale behind it is that police may by force compel the witnesses or accused to say that particular statement and which may lead to injustice.
 - iii. The Director (Discipline) had put reliance on copy of the FIR bearing No. RC-DA/2016-A-0003 dated 24th February 2016 which were contradicting its own documents and were ante dated. This important fact was never considered by the Director (Discipline).
- b) As per the extract of conversation, the name of Ms. Parul Garg was conveyed to Mr. Krishan Kumar by Mr. P.R. Meena not of the Respondent. The electronic evidence is corroborative evidence in nature and no conviction can be made on the basis of the alleged conversation. The conversation "*unsebaatkarlena*" was never referred for the Respondent but for Ms. Parul Garg.
- c) The Director (Discipline) failed to seek complete conversation from the Superintendent of Police, CBI, Anti-Corruption Branch, New Delhi, no reliance can be placed on incomplete and selective conversation.
- d) Mr. Krishan Kumar deliberately named the Respondent at the time of his meeting with Mr. P.R. Meena on 24th February 2016, there by the name of the Respondent was put into the mouth of Mr. P.R. Meena whereas in the Notesheet of the Income Tax file of M/s Square 9 Inn, the name of the Respondent as well Ms. Parul Garg was there as Counsel of the M/s Square 9 Inn. The Director (Discipline) failed to take cognizance of

Bigg

the fact that the blank spaces in the conversation remained unexplained and made conversation doubtful.

- e) The Director (Discipline) failed to cognizance of the statement of Sh. Subhash Kumar regarding the conspiracy theory against the Respondent.
- f) The Director (Discipline) failed to take cognizance of the statement of Sh. Krishan Kumar regarding the conspiracy theory against the Respondent. In the Statement, it has been specifically stated *"Thereafter I informed to trap team members that the bribe amount be given to Sh. Deepak Agarwal, CA. Here the name of Sh. Deepak Agarwal was not directly mentioned in the conversation on 24.02.2016 but I know that he was talking about Sh. Deepak Aggarwal."*
- g) The Respondent provided copy of the Judgement of the Court of Shri Arun Bhardwaj, Special Judge (PC Act) (CBI-05) , Rouse Avenue District Court, New Delhi and provided deficiencies in information submitted by SP, CBI, Anti Corruption branch, New Delhi on various dates read with the Said Order.
- h) Neither Superintendent of Police, CBI, Anti-Corruption Branch, New Delhi furnished the complete documents to the Learned Director Discipline nor the Learned Discipline sought complete documents including unedited and certified call records.
- i) The Director (Discipline) overlooked that the transcripts filed by the Superintendent of Police, CBI, Anti-Corruption Branch, New Delhi contains blank spaces in the conversation which makes it doubtful. No clarification was sought from Superintendent of Police, CBI, Anti-Corruption Branch, New Delhi in this regard.
- j) The Hon'ble CBI Court decided that the documents filed by Superintendent of Police, CBI, Anti-Corruption Branch, New Delhi was false and fabricated, no reliance should have been placed on the same by the Director(Discipline). The contention of the Respondent was overlooked by the Director (Discipline).
- k) A conspiracy was hatched against the Respondent by Sh. Krishan Kumar, Sh. P.K. Garg and Ms. Paul Garg, this fact has been proved in the Learned CBI Judge Order dated 18th February, 2021 where all the call details were examined between them and has become part of the Order.
- l) There was no conspiracy between the Respondent and Mr. P.R. Meena and CBI failed miserably to show/prove any link, conversation, meeting of mind between Respondent

Bisla

- and Sh. P.R. Meena prior to raid and there was not even a slightest evidence about existence of criminal conspiracy between Sh. Deepak Aggarwal and Sh. P.R. Meena.
- m) Had there been any conspiracy between the Respondent and Mr. P.R. Meena, Mr. P.R. Meena would not have refused to accept the bribe from Sh. Deepak Aggarwal.
- n) The CBI Judge in its Order dated 18th February 2013 at Para 72 on Page No. 117 (WS dated 05th December, 2022 stated: *"From the above, it appears that the FIR Ex. PW3/A is ante dated as Further Verification Memo Ex. PW-15/1 stated to be dated 23.02.2016 which is the basis of registration of FIR against Sh. Deepak Aggarwal itself was not in existence on 23.02.2016. Therefore, Ex. PW-15/1 is also false document."*
- o) It is matter of record that the Complainant also disclosed that Sh. Pawan Kumar Garg, CA had earlier talked with Sh. P.R. Meena about his settlement of income tax and regarding payment of income tax and regarding payment of bribe amount in the presence of independent witnesses.
- p) Informant has not come to the Hon'ble ICAI with complete and true facts.
- q) This complaint has been filed in order to shield the real master mind and other alleged accused to escape from the clutches of law.
- r) The complaint has not enclosed any documents which show the involvement of the Respondent.

OBSERVATIONS OF THE BOARD:

5. On perusal of the documents and submissions on record, at the outset, the Board noted that the Respondent pointed out certain deficiencies in formation of Prima Facie Opinion by the Director (Discipline) and deficiencies in information submitted by SP, CBI, Anti-Corruption branch, New Delhi on various dates read with the Order dated 18th February 2021. In this regard, the Board took into view the following observations of the Hon'ble Supreme Court in the matter of **Uday ShanakarTriyar v. RamKalewar Prasad Singh and Anr.** (Reported in AIR 2006 SC 269):

"Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or application or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates.



Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a handmaiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use.(emphasis provided)."

Thus, the Board held that any deficiencies or infirmities in the way or manner of investigation by an investigating agency/authority cannot take away the evidentiary value of the documents or the evidences on the basis of which Charges have been framed against an accused.


6. With respect to the charge alleged against the Respondent, the Board observed that FIR bearing No. RC-DA/2016-A-0003 dated 24th February 2016 was registered against the Respondent along with Shri P R Meena who was the Income Tax Officer. The said FIR was registered on the basis of written complaint received by CBI from Shri Krishan Kumar who was the client of the firm M/s P.K. Garg & Associates in which the Respondent was a partner at the time of conduct. The Board further noted that the Informant also provided copy of 'Final Report Form' i.e. 'copy of Charge-sheet' dated 29th July 2016 registered by CBI. The said Charge Sheet, inter-alia, provided as under:

The present case came into existence on the basis of written complaint given by the Complainant Sh. Krishan Kumar wherein it was alleged by the Complainant that he received an income tax notice dated 15.09.2015 regarding tax assessment of his firm from Sh. P.R. Meena. The Complainant contacted his CA Sh. Deepak Agarwal for looking into the matter who met Sh. P.R.Meena, ITO and Sh. P.R. Meena, ITO raised certain queries.....

The conversation which took place between the Complainant and Sh. P.R. Meena during verification conducted on 22.02.2016.

"P.R. Meena : to kitna dena chahte ho. Batao aap rupay, mai itna dena chahta hun, aap bataa do bhai mai itnaa dena chahta hun.

Krishan Kumar: dhaidhai (2.5) karlijiyega....



P.R. Meena: dhai me nahihoga....

Krishan Kumar: saadhe teen (3.5) jo hai..mai jo hai...theekha

P.R. Meena : theekhai.....

Krishan Kumar: koi nahi jaisa aap kahegen, mai dekh lunga. Theekhai Sir.

P.R. Meena: theekhai.”

The above conversation indicated towards the demand of Rs. 3.5 lacs as bribe money and the role of CA Deepak Agarwal and CA Parul Garg as middle men to the commission of the crime. The above conversation also indicated the familiarity between the accused persons. (emphasis provided).....

Investigation revealed that VO had ascertained from the Complainant through the telephone on 23.02.2016 that the accused officer was indicating towards accused Deepak Agarwal, CA and he was dealing with file of the complainant Sh. Krishan Kumar.....

The conversation which took place between the accused P.R. Meena and Sh. Krishan Kumar in the office room of the accused on 24.02.2016:

“P.R. Meena: to ap unko bhejo na, hum aap ko thore denge order

Sh. Krishan Kumar: Ek hi baathai, chalo wo le jayegen

P.R. Meena: wo unki attendance lginihai aur...attendance unhi ki hi lag rahihaina

Sh. Krishan Kumar:Accha...attendance unkilagtihogi.

P.R. Meena: attendance lgtihai.

Sh. Krishan Kumar: theekhai...kaun Deepak kahrahe the

P.R. Meena: ha

Sh. Krishan Kumar: Deepak agarwal..

P.R. Meena: ha agarwal ji.”

The conversation indicates that the accused P.R. Meena did not want to accepted the bribe money directly and further, he was referring to accused Deepak Agarwal as confirmed by the Complainant in his statement. (emphasis provided)

“P.R. Meena: unko hi bhejo

Krishan Kumar: wo kahnelage ki aap hi de aana

P.R. Meena: nahinahi. Unko hi bhejnahai

Krishan Kumar: jaisaaapkahe.....baatkaruunse."

Accordingly, the Client was directed to make a call to accused Deepak Agarwal on his mobile number 9810733490 for verifying whether he was present in his office or not. This conversation was also recorded in the memory card through DVR by keeping the mobile phone of the complainant on speaker mode. In this conversation it was confirmed that accused Deepak Agarwal was present in his office.....

A call was then made by accused Deepak Agarwal through his mobile number 9810733490 on the mobile phone number of accused P.R. Meena 9013869042..... In this conversation accused P.R. Meena directed accused Deepak Agarwal to come to his office for handing over the bribe money on that day itself and also directed him to come alone and not with the complainant Sh. Krishan Kumar.

The relevant portion of the conversation as under:

Deepak: Wo milke gaye the na.....Kishan ji.

P.R. Meena: ha ha.

Deepak: aaye the aapke paas.

P.R. Meena: nahi

Deepak: haan ji.

P.R. Meena: nahi.

Deepak: squire 9 inn wale

P.R. Meena: haan aye the.

Deepak: acha wo aa gayehai mere pass ji

P.R. Meena: aapke pass aa gayena.

Deepak: haan aa gayehai ji mere pass baithe h

P.R. Meena: to theekhai aa jaophir

Deepak: Haan ji

P R Meena: aa jao ji aa jao.

Deepak: achathikhain wo aa gyesamaanbhi aa gay hai.

P.R. Meena: are aap hi aana bhai sahib unko mat lana

Bid

Deepak: theekhai ji aa raha hu aa rahahun. Theekhai....."

The bribe amount lying below the table of accused Deepak Aggarwal was recovered and put back in the same bag from which the complainant took it out and handed over the same to accused Deepak Aggarwal. This was done by accused Deepak Aggarwal himself. After that it was decided to visit the office of accused P.R. Meena. Accused Deepak Aggarwal was directed to carry the tainted amount with him and hand over the same to accused P.R. Meena as directed by accused P.R. Meena during telephonic conversation. Accused Deepak Aggarwal along with independent witness Sh. Subash Kumar left for the office of accused P.R. Meena in CBI vehicle along with other members of CBI Team.

....

After that accused Deepak Aggarwal along with independent witness entered in the office premises of the accused P.R. Meena.

....

After about 20 minutes accused Deepak Aggarwal came outside from the office of the accused P.R. Meena and told TLO that accused P.R. Meena is asking for only two lakhs of rupees out of the total bribe amount and rest of the bribe amount i.e. 1.5 lakhs is for Sh. Pawan Kumar Garg and he agreed to receive only Rs. 50,000/- by saying that he has already received Rs. 1.5 Lakhs of the bribe money from accused Parul Garg D/o Shri Pawan Kumar Garg. C.A. Investigation could not reveal prosecutable evidence against Sh. P.K. Garg, CA.

.....

During investigation the transcript of the conversation which took place between the complainant and the accused persons and also between accused Deepak Kumar and accused P.R. Meena was prepared. The transcript clearly proves the conspiracy among all the accused persons and the demand and acceptance of bribe for settlement of Income Tax for the assessment year 2013-14 by the accused persons i.e. PR Meena ITO, accused Deepak Aggarwal, CA and accused Parul Garg, CA.

Bisla

The Complainant told that the bribe amount was taken by accused Deepak Agarwal to further hand it over to accused PR Meena. *"The identity of CBI Team was disclosed and the face of accused Deepak Agarwal on being challenged got pale. The tainted bribe amount was found kept on the ground below the table of accused Deepak Agarwal."* On being asked accused Deepak Agarwal stated that this money was taken to further hand it over to accused P.R. Meena.

Thereafter clean glass tumblers and a jug of water were arranged from the Income tax office. A solution of sodium carbonate in clean water in a glass tumbler was prepared on the spot itself. On being directed, the Respondent dipped his right hand fingers in the solution of sodium carbonate in water. The solution turned pink."

7. The Board also perused the copy of the Statement of Client (Sh. Krishan Kumar) dated 18.04.2016 recorded in the office of SP, CBI, ACB, N.Delhi:

"I am to state that I used to pay regular Income Tax in normal year, but for the assessment year,2013-14 my case was taken up for scrutiny because of which the trouble started for me.....I contacted Sh. Deepak Agarwal, Chartered Accountant and asked Sh. Deepak Agarwal for looking into the matter.....In this connection, I submitted reply to the said notice through Sh. Deepak Agarwal, CA. Accused P.R. Meena...raised some queries in the reply.....The accused P.R. Meena wanted to meet me for settling the bribe amount as he conveyed that to my CA of the case. Sh. Deepak Agarwal, CA discussed with accused P.R. Meena and directed me to visit the office of accused P.R. Meena, at his office at Vikas Bhawan, ITO Delhi and discuss the matter directly between 15:00 hrs to 16:00 hrs. Since I did not want to give the bribe, I reached the CBI office and made the Complaint to the Supdt. of Police, CBI, ACB Delhi on 22.02.2016."

8. The Board also perused the copy of the Statement of Client (Sh. Krishan Kumar) dated 13.06.2016 recorded in the office of SP, CBI, ACB, N. Delhi:

"Whenever I go to the office of M/s PK Garg & Associates I talked and discussed about my case i.e. income tax return of M/s Square 9 Inn with Sh. Deepak Agarwal as he was looking after my case and representing my firm."



9. The Board also noted that Sh. Krishan Kumar appeared as a witness before it and deposed as under:
- (a) He is the maternal uncle of CA. P.K. Garg.
 - (b) He confirmed that M/s Square Inn is a client of CA. P.K. Garg's Firm and the Respondent was not authorized to take independent decisions.
 - (c) There was a case for the assessment year 2013-14 which was referred to the firm and the firm delegated it to both Deepak Aggarwal and Parul, as both were handling it.
 - (d) All the cases related to him regarding bribes and settlements were discussed by Mr. P.K. Garg with P.R. Meena. He went to meet Mr. Meena to discuss bribe only and this was conveyed to him by P.K. Garg through telephone.

10. The Board also perused the copy of the Statement of CA. P.K. Garg on 13.06.2016 recorded in the office of CBI, ACB, New Delhi u/s 161 Cr.P.C. :

"Sh. Deepak Aggarwal has share of 15 per cent and he practically looks after all the day-to-days functioning of the office together with Ms. Parul Garg.

On being asked about the relation between me and Sh. P.R. Meena, I am to state that I do not know him nor have I seen him before the registration of this case. On being asked I am also to state that from 22nd February to 24th February 2016 as far as remember I did not visit the office of M/s P.K. Garg & Associates, Chartered Accountants at Laxmi Nagar. On being asked I am to state that I did not know that this particular case was with Sh. P.R. Meena, ITO. I have not paid any money to Sh. P.R. Meena in connection with the case of Square 9 Inn. On being asked whether my daughter Ms. Parul Garg had paid any illegal bribe money to Sh. P.R. Meena, ITO in the instant case I am to state that she had not paid any. Today you have played the conversation between Sh. Deepak Aggrwal, CA and Sh. P.R. Meena, ITO which was recorded on 24.02.2016, an extract of which is reproduced below:

Deepak: acha mujhe to ye bhi ni pata nhi tha sir, mujhe to bilkul hi nahi pata tha kyon ki mai to aaya nahi tha us din kaun aaya tha us din.

P.R. Meena: nahi unke father aayethe us din.

B.K.

On being asked I am to state that I do not know Sh. P.R. Meena, ITO and also have never gone to his office. I did not know to whom he is referring to by saying unke father.

P.R. Meena: nahinahiwo to dedh(1.5) de gay na, dedh de gay na.

Deepak: acha

On being asked I am to state that I do not know who has given Rs. 1.5 lakhs which Sh. P.R. Meena is talking about. I have not paid any money to anyone pertaining to the instant case."

.....

This case was being handled by Sh. Deepak Aggarwal and my daughter Mrs. Parul Garg was assisting him in getting the assessment complete.

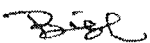
The conversation between Mr. Deepak Aggarwal and Sh. P.R. Meena was recorded on 24.02.2016. After going through the transcript and on being asked I am to state that since I have never met Sh. P.R. Meena and the question giving and finalizing the bribe amount does not arise at all.

On being asked as to why P.R. Meena was saying "Parul se meri 2 kibaathuithi." I am to state as far as my knowledge is concerned Parul never offers or settle bribe amount with any Assessing Authority."

Now, after Sh. Deepak Aggarwal was trapped by CBI he has stopped coming to the office.

11. The Board also noted that CA. P.K. Garg appeared as a witness before it and deposed as under:
 - (a) Sh. Krishan Kumar is the maternal uncle of his wife and M/s Square Inn is his client.
 - (b) He was not in practice and was doing some business. The Respondent was in charge of everything, with his daughter assisting him with the CA work.
 - (c) Krishan Kumar informed him that through the Respondent, the ITO was asking for money and he was not in a position to pay that much. That thing was told to him and he said he was busy with his business. It was only Mr. Krishan Kumar who informed him that Mr. Meena had demanded Rs. 5 lakhs as a bribe, which is a large sum, and he refused to pay. So, Mr. Krishan Kumar decided to go on his own.

12. The Board also perused the Note Sheet maintained by the Income Tax Department with respect to M/s Square Inn for the A.Y. 2013-14 and noted that either the Respondent or CA. Parul Garg represented the client before the Income Tax Department between July 2015 to Dec 2015. The Board also noted that the Informant brought on record unsigned copy of the is it Assessment Order dated 29th Jan 2016 with respect to M/s Square Inn for



the AY 2013-14 in the name of Mr. P.R. Meena wherein returned income was accepted u/s 143(3) of the Income Tax Act 1961.

13. The Board also noted that the telephonic conversation was sent for forensic examination and as per the copy of Forensic Voice Examination Report at the relevant places, the voice of the Respondent had been identified as his probable voice. The relevant portion is stated as hereunder:

"the audio file marked exhibit.... said to contain specimen voice recording of Sh. Deepak Agarwal marked exhibit... and the sentence/ words namely "Number haikya"... "sadhe teen"... have been selected."

"Hence, the voice marked exhibits.... are the probable voice of the person (Sh. Deepak Agarwal) whose specimen voice is marked exhibit....."

14. Thus, on a combined reading of the above it is clear that telephonic conversation took place between the Complainant and Sh. P.R. Meena for negotiating the bribe amount for further settlement and also indicated that Sh. P.R. Meena did not want to accept the bribe money directly and he further referred the Complainant to the Respondent for the same. There was telephonic conversation between the Respondent and the Income Tax official also. The bribe amount lying below the table of the Respondent was recovered and put back in the same bag from which the Complainant took it out and the same was handed over to the Respondent. Subsequently, the Respondent had gone to the ITO office for handing over the bribe amount. Telephonic conversation was also sent for Forensic Voice Examination wherein the voice has been confirmed to be the probable voice of the Respondent.

15. The said charge sheet had been placed before the CBI Court, wherein Order dated 18th February, 2021 had been passed with the following observations:

"it has come in the evidence of PW-2 and PW-3 that Sh. Deepak Agarwal had accepted the bribe amount of Rs. 3.5 Lakhs from the complainant for handing over to Sh. PR Meena..... Mere acceptance of the bribe amount of Rs. 3.5 Lacs by Sh. Deepak Agarwal from Shri Krishan Kumarmakes him conspirator. It is well know that conspiracies are hatched in darkness and direct evidence is seldom possible. The acceptance of bribe

Bigg

amount by Sh. Deepak Agarwal from the complainant is the important evidence for proving his role as co-conspirator. He knew that the proceedings of Shri Krishan Kumar were pending before Sh. P.R. Meena which were not yet finalized. Therefore, acceptance of bribe and assuring that it will be handed over to Sh. P.R. Meena makes Sh. Deepak Agarwal also a co-conspirator. Sh. P.R. Meena had demanded the bribe from Sh. Krishan Kumar but directed him to pay the same to Sh. Deepak Agarwal. This bribe amount was accepted by Sh. Deepak Agarwal for further making payment to Sh. P.R. Meena. Therefore, the offence of conspiracy between Sh. P.R. Meena and Sh. Deepak Agarwal stands proved."

The Board thus observed that it has been effectively highlighted in the Order itself, which was brought in by the Respondent himself that the Respondent acted as a co-conspirator/facilitator for handing over the bribe amount to Sh. P.R. Meena on behalf of Shri Krishan Kumar.

In this regard, reference was also made to the judgement of Firozuddin Basheruddin & Ors. Vs. State of Kerala, Appeal (crl.) 357-359 of 1998 dated 20.08.2001 of the Hon'ble Supreme Court of India relied on by Sh. Mohd. Fareed, Ld. Sr. PP for CBI. In this case, the Hon'ble Supreme Court had referred to its previous judgement in the case of State through Superintendent of Police, CBI/SIT vs. Nalini & Ors. (1999) 5 SCC 253 where one of the principles governing the law of conspiracy is stated to be that the agreement need not be entered into by all the parties to it at the same time but may be reached by successive actions evidencing their joining of the conspiracy. Reference is also made to the judgement in the case of Yashpal Mittal vs. State of Punjab, (1977) 4 SCC 540 where it is held that it is not necessary that all the conspirators must know each and every details of the conspiracy as long as they are co-conspirators in the main object of the conspiracy. It is further held by the Hon'ble Supreme Court that one of the models to approach determination of conspiracy is that of a chain where each party performs a role that aids succeeding parties in accomplishing the criminal objectives of the conspiracy.

Handwritten signature

Faint, illegible text, possibly a stamp or official signature.

16. The Board observed that the Respondent portrayed that he is basically a victim of the circumstances and was not aware that he is being made a part of conspiracy. The Respondent mentioned that he took that money from Shri Krishan Kumar for CA. Parul Garg at her behest. However, the said contention of the Respondent is not acceptable as the Respondent himself is a Chartered Accountant and he is expected to exercise his prudence not only in the exercise of his professional duties but also while dealing with his clients. When the amount was being offered and when he was asked to carry the amount to the Income Tax official, he could have easily refrained from that, but he failed to do so.
17. Hence, the Board was of the view that offering bribe to a Public Servant to perform public function is a serious offence and the Respondent in the instant case in the circumstances narrated above has acted as a co-conspirator/facilitator for offering bribe to Sh. P.R. Meena, Income Tax Officer for clearing scrutiny assessment for AY 2013-14 of his client, Shri Krishan Kumar which clearly points out at his misconduct. Such an action on the part of the Respondent is clearly unbecoming of a Chartered Accountant. The Board was also of the view that the circumstantial evidences clearly suggest that the Respondent himself became a conduit for handing over the bribe which is an activity prohibited by law and thereby has certainly brought disrepute to the entire Profession. Accordingly, the Respondent is held **GUILTY** in respect of the charge alleged.

CONCLUSION:

18. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **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.

Sd/- Sd/- Sd/-
CA. Prasanna Kumar D. Ms. Dolly Chakrabarty (IAAS, retd.) CA. (Dr.) Raj Chawla
(Presiding Officer) (Government Nominee) (Member)

DATE:10th February 2023

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिना नाथ तिवारी / Binath Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निर्देशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आइसीएआई भवन, विकास मण्डल, शाहजहाँ, दिल्ली-110032
ICAI Bhawan, Vasthwa Nagar, Shahjahan, Delhi-110032