



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 (2023-2024)]]

[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:

CA. Surajit Datta (M. No. 061755), Kolkata (West Bengal)
[PPR/434/2019/DD/01/INF/2020/DC/1504/2021]

MEMBERS PRESENT:

CA. ANIKET SUNIL TALATI, PRESIDING OFFICER
SHRI PRABHASH SHANKAR, IRS (RETD.), (GOVERNMENT NOMINEE)
CA. GYAN CHANDRA MISRA, MEMBER

1. That vide findings dated 07-02-2023 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. Surajit Datta (M. No. 061755)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Other Misconduct falling within the meaning of item (2) of Part IV of the First 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 a communication dated 12th April 2023 was addressed to him thereby granting an opportunities of being heard in person / through video conferencing to make a written & verbal representation before the Committee on 27th April, 2023.

3. The Committee noted that on the date of hearing i.e., 27th April 2023, the Respondent was present through video conferencing from Kolkata Office. The Respondent confirmed receipt of the finding of the Committee and made his verbal submissions on the same.

4. The submission brought on record by the Respondent are in brief as under.

4.1 That he vehemently denies that he parted with the answer book sent to him for evaluation with an unauthorized person Mr. Pabitra Das.



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4.2 That the said Mr. Pabitra Das was his office person and that he had never asked him to examine the answer scripts.

4.3 That the answer scripts were recovered from his paternal home at Bag Bazar and at the time of recovery of answer books the said Mr. Pabitra Das was present in the said premises.

4.4 That as per given terms of examination department, he has already been removed permanently from the panel of examination by the examination committee before disciplinary proceedings has started. An examiner cannot be punished twice for the same cause of action as it would tantamount to double jeopardy.

5. The Committee concurred with the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis verbal submissions of the Respondent as made before the Committee.

6. Keeping in view the facts and circumstances of the case, material on record including verbal submissions of the Respondent on the findings of the Committee, **the Committee ordered that name of the Respondent (CA. Surajit Datta (M. No. 061755), be removed from the Register of members for a period of three months, and a fine of Rs. 25,000/- (Rupees Twenty-Five Thousand) 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 Member for an additional period of one month.**

Sd/-

(CA. ANIKET SUNIL TALATI)
PRESIDING OFFICER

Sd/-

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

Sd/-

(CA. GYAN CHANDRA MISRA)
MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिभा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्व नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

DATE: 09-06-2023

PLACE: NEW DELHI

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (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

Ref. No. PPR/434/19-DD/01/INF/2020-DC/1504/2021

In the matter of Information treated against:-

CA. SURAJIT DATTA (M.No.061755)

Shop NO.14, Block- F, Commercial

Sugam Park, 195, N. S. Road

KOLKATA – 700 103.

.....Respondent

MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer

Shri Prabhash Shankar (Govt. Nominee), Member

CA. Gyan Chandra Misra, Member

CA. Priti Paras Savla, Member

DATE OF FINAL HEARING : 21.12.2022

PLACE OF FINAL HEARING : ICAI, I.P. Marg, New Delhi (Through VC)

PARTIES PRESENT:

Respondent : CA. Surajit Datta from ICAI, Kolkata

BRIEF OF THE DISCIPLINARY PROCEEDINGS: -

1. On the day of hearing held on 21st December 2022, the Committee noted that the Respondent was present. On being enquired from the Respondent as to whether he is aware of the charges, the Respondent replied affirmatively and pleaded not guilty to the charges. Thereafter, the Respondent made his submissions on the charges. The Committee also

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posed questions to the Respondent. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.

Brief Background of the matter

2. An office note dated 16th August 2019 was received from Examination Department of the Institute of Chartered Accountants of India through Additional Secretary (Examinations) containing allegation against **CA. Surajit Datta, (M. No. 061755)** (hereinafter referred to as the **"Respondent"**), Examiner of paper 3 Cost Accounting and Finance Management, Intermediate IPC Old Course May/June 2019 Examination. It was stated that the Respondent parted with the answer books sent to him for evaluation with unauthorized person, Shri Pabitra Das, which was a confidential and personal assignment.

CHARGES IN BRIEF: -

3. Based on the above background, the allegation against the Respondent is that Respondent has violated **Clause 'E' of the Instruction to Examiners** whereby examiners are instructed to examine personally the answer books and they cannot show the answer books to anyone, delegate the work to anyone else and cannot carry answer books from one place to other place. In this regard Clause E of Para 11, 12 & 14 of the General Instructions to Examiners Evaluation of Physical Answer Books is reproduced below: -

XXXXX

"E. Confidentiality, Fidelity and Secrecy

11. *You should ensure that no answer book/ any part thereof is copied/ Xeroxed/ scanned/replicated and discussed with or shown to anyone.*

12. *You are required to examine personally the answer books of all candidates and you cannot delegate the work to anyone. This evaluation assignment is non-transferable."*

14. *You should not carry the answer books from one place to another for evaluation and also should not undertake the evaluation work while travelling e.g., by train, Air etc.*

XXXXX



Such action of the Examiner was not only in contraventions of the General Instruction to Examiners of the Institutes but also brought disrepute to the system and tarnished the image of the Institute.

SUBMISSIONS OF THE PARTIES AND FINDINGS OF THE DISCIPLINARY COMMITTEE: -

4. The Committee noted that the written and verbal submissions made by the Respondent can be summarized as under: -
- i) The Respondent stated that he does not agree with the opinion of the Director (Discipline).
 - ii) The Respondent stated that the Examinership is not a professional work as defined under the Chartered Accountants Act, 1949 and its schedules. The address of his Baghbazar residence was there in ICAI record as per the files maintained by ICAI in 2015 where he used to evaluate also.
 - iii) His inability to evaluate answer books given to him out of his capacity of 540 numbers was communicated to Examination department but no action was taken. None of the answer books are missing and those remain not evaluated by him except 20 sample answer books at the time of seizure.
 - iv. The Respondent stated that Shri Pabitra Das is a commerce graduate, and he is his friend.
5. On perusal of documents on record, it is further observed that 240 answer books were found with one Shri Pabitra Das, who is not Examiner of the ICAI. Further, it is evident from the letter of Shyampukur Police station signed by the Superintendent Inspector (SI), Shri Kamal Soren, addressed to Additional Secretary Examination that address of the premises from where answer books were seized was 21, Girish Avenue, Kol-03, Police Station Shyampukur. However, residential address of the Respondent as per official records was 'A - 12/02, 195 N. S. C Bose Road, Sugam Park, Narendrapur Kolkata-700 103' under Police Station Sonarpur in Kolkata and his Professional address was 'SH No. 14, Block F Commercial, Sugam Park 195 NS Road Kolkata'. The Respondent also did not provide any document which may prove that the aforesaid premises, under Police Station Shyampukur, from where 240 answer books were seized by the police from Shri Pabitra Das is his another workstation.



6. It is observed that the answer books which were seized in year 2019 from the place (i.e., 21, Girish Avenue, Kol-03) was not registered with the Institute either as official or residential address of the Respondent at that time. However, it is observed that the aforesaid address was updated by the Respondent as his residential address with the Institute much later on 18.01.2022. Hence, the Respondent's submissions that the afore-stated address was on the record of the Institute at that period of time is not acceptable.
- 6.1 The Respondent also admitted that he has given answer sheets to his son to move the same to other place. The Respondent stated that he had two addresses at that time, and he had shifted copy from one address to second address.
7. In view of the above submissions, the Committee went through the General Instruction issued to the Examiner and noted the provisions related to '*Confidentiality, Fidelity and Secrecy*' as under:-

"E. Confidentiality, Fidelity and Secrecy

11. *You should ensure that no answer book / any part thereof is copied/ xeroxed /scanned/replicated and discussed with or shown to anyone.*

12. *You are required to examine personally the answer books of all candidates and you cannot delegate the work to anyone. This evaluation assignment is non-transferable.*

13. *No information about the marks obtained by a candidate should be given by the examiner either before or after declaration of the results to anyone.*

14. *You should not carry the answer books from one place to another for evaluation and also should not undertake the evaluation work while travelling e.g., by train, Air etc".*

From the aforementioned instruction, it is clear that an examiner was required to examine personally the answer books and he cannot delegate the work to anyone. Further, the Examiner cannot carry the answer book from one place to another for evaluation. But in the instant matter, the Respondent has given the answer books to the third person (i.e., his son) to shift the same to another place and moreover, the answer books were found in the custody of Shri Pabitra Das who was not an examiner or associated with the examination process of ICAI in any manner. This action of Respondent i.e., parting of answer books with third party not only shows his callous attitude towards this noble duty as being assigned to



him but also his complete and blatant disregard towards the guidelines of examination department which he was bound to follow. Such an action of Respondent culminated into recovery of answer books from a third and totally unconnected party bringing bad name and raising finger on the entire examination system of ICAI which has its own reputation and image among the stakeholders and thus brought disrepute to the profession / ICAI as well as entire Examination system of the Institute of Chartered Accountants of India which has its global credibility. Such an act on the part of the Respondent creates the negative perception in the public about credibility of the Examination system of the Institute.

8. The Committee also observed that it was duly communicated to the Respondent that time schedule, instructions and the guidelines of the Institute/Head Examiner for evaluating the answer books are to be strictly followed and the deviation in the evaluation of answer books/ not adhering to time schedule/ instructions by the examiners have been viewed seriously by the Examination Committee and the matter may be referred to the Disciplinary Directorate for action under the disciplinary mechanism of the Institute. Accordingly, the Committee was not satisfied with the Respondent's submission that he was not informed that in case of deviation to the General Instruction to the Examiner, any disciplinary case can be initiated by the Disciplinary Directorate.
9. Taking into accounts the above, it is viewed that the Respondent has showed complete disregard of the onerous responsibility and faith placed on him by the Examination Department and he has dealt the matter with not much amount of seriousness required of him and he did not exercise reasonable care and caution as expected from a professional/ Chartered Accountant. The negligent attitude of the Respondent not only put the image of ICAI and its examination system at stake in the eyes of all stakeholders but also such an act on his part is clear-cut violation of the guidelines issued by the examination Committee of ICAI i.e., Clause E of General Instructions to the examiners as stated above.

Conclusion: -

10. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and 'Other Misconduct' falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

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

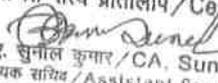
Sd/-
(SHRI PRABHASH SHANKAR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. GYAN CHANDRA MISRA)
MEMBER

Sd/-
(CA. PRITI PARAS SAVLA)
MEMBER

Date: 07/02/2023

Place: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. सुनील कुमार / CA. Suneel Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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