

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-118/15/DD/117/2015/BOD/344/2017
PR-117/2015-DD/116/15/BOD/350/2017

Shri Shekhar Kabra, Director, M/s. Whitefield Exim Pvt. Ltd.,
Ahmedabad (in BOD/344/17)

Ms.Sudha Kabra, Director, M/s Anuradha Exports Pvt. Ltd.,
Ahmedabad (in BOD/350/17)

-Vs-

CA. Kishor Kumar Goyal (M.No.047286) of M/s. Kishor Goyal & Co.,
Chartered Accountants, Ahmedabad

CORAM:

CA. G. Sekar, Presiding Officer
Shri R.K. Tewari (Government Nominee)
CA. DhinalAshvinbhai Shah, Member

In the matter of:

Shri Shekhar Kabra, Director, M/s Whitefield Exim Pvt Ltd, ..Complainant No.1
Mrs.Sudha Kabra, Director, M/s Anuradha Exports Pvt. Ltd. ..Complainant No.2
Inside Bawa'sDelha
Opp.PremDarwaja
AHMEDABAD – 380 002

Versus

CA. Kishor Kumar Goyal ... (M.No.047286)
M/s Kishor Goyal & Co. ... (FRN No.008897N)
Chartered Accountants
305, PB Parekh Tower
Opp. VanijayaBhawan, Kankaria
AHMEDABAD - 380 022

.....Respondent

DATE OF HEARING: 20.12.2018
PLACE OF HEARING: AHMEDABAD

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PARTIES PRESENT:

Complainant : **Shri Shekhar Kabra and Smt. Sudha Kabra**
Respondent : **CA. Kishor Kumar Goyal**

Findings:

1. The Board noted that since the Respondent is common in both cases and also the fact that the Complainants in both the cases were husband and wife, further the subject matter in both the cases was also more or less same, hence, the Board decided to hear the both the cases jointly while arriving at its findings.
2. The Board noted that the charges on which the Respondent has been held guilty are under:
 - a. The Respondent had not filed ROC returns of M/s Whitefield Exim Pvt Ltd. despite taking advance payment due to which the Company has to pay late filing fees.
 - b. Late filing of TDS and ROC returns of M/s Anuradha Exports Pvt Ltd. leading to payment of penalty of Rs. 2,72,824/- and Rs. 12,400/- to Income Tax and ROC respectively.
3. The Board noted that the Respondent submitted before it that he was statutory as well as tax auditor of these Companies. He further denied of conducting work related to TDS and ROC.
4. The Board during the hearing noted that both the parties admitted of not being in possession of any appointment letter. Hence, in such a scenario, when the Respondent is specifically denying conducting services relating to TDS and ROC filing, the Complainants were asked to submit any evidence to establish that the Respondent was assigned work relating to ROC and TDS.
5. The Complainants in this regard brought attention of the Board to e-mail sent/ received to/ from the Respondent. In respect of the same, the Respondent submitted that he was using email-id goyalkishor@yahoo.com, whereas the emails were sent to email id goyalkishor67@gmail.com. The Respondent further submitted that the email id goyalkishor67@gmail.com was used by M/s R.K. Finstock Services and this fact was in knowledge of the Complainants. The Board noted that emails produced in support of allegation by the Complainants were addressed to goyalkishor67@gmail.com.
6. Accordingly, the Board again directed the Complainants to submit any constructive evidence to establish that the Respondent was assigned work relating to ROC and TDS. On its direction the Complainants vide letter dated 26.12.2018 submitted copy of GAR 7 dated 16.12.2014, Form 27A dated 13.10.2014 and

Income Tax Return dated 20.11.2014. The Complainants also enclosed copy of email whereby the Respondent reminded about filing of TDS return. The Complainants also submitted email from the Respondent asking him/her as to whether TDS return for Q3 needs to be filed. The Board also perused the submissions of the Respondent on these documents made by him vide email dated 31st December, 2018.

7. The Board on perusal of the same noted that the documents submitted by the Complainant were sent from goyalkishor67@gmail.com, which the Respondent had already informed that said email belongs to M/s R.K. Finstock Services.
8. The Board noted that although there is some needle of suspicion that the Respondent seemed to have been using both email-id's but, there is lack of concrete evidence/ documentation from the Complainants. The Board was of considered view that the Complainants even could not produce the basic documents like appointment letter and therefore the Respondent cannot be held Guilty on mere suspicion. Accordingly, in the absence of positive evidence to establish misconduct, the Respondent is held Not Guilty.

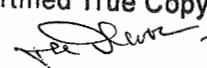
CONCLUSION:

9. Thus, the Board concluded that the Respondent is held **NOT GUILTY** of "Other Misconduct" falling within the meaning of Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act. Accordingly, 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, the Board passes order for closure of the case.

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Sd/- (G. SEKAR) PRESIDING OFFICER	Sd/- (R K TEWARI) GOVERNMENT NOMINEE	Sd/- (DHINAL ASHVINBHAI SHAH) MEMBER
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DATE: NEW DELHI
PLACE: 2nd FEBRUARY, 2019

Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002

