

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/219/2019-DD/201/2019/BOD/687/2023]

CORAM (in Person):

CA. Rajendra Kumar P, Presiding Officer

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

CA. Priti Savla, Member

In the matter of:

Ms. Neelam Singhvi

308/4, Ashok Nagar,

Opp. Bhupalpura Police Station,

Udaipur, Rajasthan – 313001.

.....Complainant

Versus

CA. Puneet Mohnot (M. No. 079480)

Partner, M/s. Mohnot Puneet & Associates (FRN. 012316C)

Chartered Accountants

1st Floor, B-59, Hari Marg, Malviya Nagar,

Jaipur, Rajasthan – 302017.

.....Respondent

DATE OF FINAL HEARING : 11th January, 2024

PARTIES PRESENT:

Complainant : Ms. Neelam Singhvi (through videoconferencing)

Respondent : CA. Puneet Mohnot (in person)

FINDINGS:

CHARGE ALLEGED:

1. The Complainant stated that the Respondent was a practicing Chartered Accountant and was working as a partner of M/s Mohnot Puneet & Associates (Respondent's firm) in Jaipur. The Complainant alleged that the Respondent filed her Income Tax Return without her knowledge and even the Respondent forged her signatures on ITR-V for the

Assessment Years 2012-13 to 2015-16, against which the Complainant has filed a case under section 420 of Cr. P.C. In this regard, the Complainant further stated that in the said Returns, the Respondent has shown her income from 'Jagannath University' and 'Jagannath Gupta memorial Education Society', however the Complainant has no association with the said entities, and she has neither served nor had received any income from such entities / institutions. She also mentioned that the income from the said entities were received and utilized by the Respondent in connivance with them and the Respondent was also the auditor of both such entities / institutions.

BRIEF OF PROCEEDINGS HELD:

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S.no.	Date of Hearing(s)	Status of Hearing(s)
1.	7 th November, 2023	Adjourned due to non-appearance of the Complainant.
2.	6 th December, 2023	Part-Heard and adjourned.
3.	11 th January, 2024	Heard and concluded.

BRIEF SUBMISSIONS OF THE RESPONDENT:

3. The Respondent in his defence, inter-alia, stated as hereunder:

3.1 Since, Respondent is a Chartered Accountant in practice, the refusal on the part of the Respondent to file the ITR of the Complainant as per her desire from FY 2011-12 to 2014-15 would have added bitterness to the further relations between wife and husband. Further till 11.06.2016, all clothes, belongings, jewellery, documents etc. of the Complainant were lying at the house of the Respondent and there had been no talks regarding divorce proceedings till that date. There were talks and efforts to solve the mutual disputes between the Complainant and Respondent. Further, parents of the Respondent were also of the same view that since there had been no talks of divorce till that time and there are efforts to save matrimonial relationship, therefore, the Respondent shall not refuse to file ITRs of Complainant as per her desire. Due to all these facts and circumstances, the Respondent continued filing ITRs of the Complainant from his office for FY 2011-12 to FY 2014-15 on request and under instructions of the Complainant.

3.2 The Complainant filed her complaint at the Police Station and ICAI after taking her ITR related documents file from the Respondent on 11.06.2016. This ITR documents file contained all the written details given by the Complainant to the Respondent from time to time, on the basis of which ITRs for the alleged FYs have been filed by the office of the Respondent. However, this fact has been altogether skipped in the Prima Facie view/opinion of the Director (Discipline). It is critical to mention here that all CAs in

practice keep the documents of any assessee in their respective file only, otherwise it would not be possible to control the client specific documents. Now, the Complainant has made this complaint after taking her ITR related document file from the Respondent on 11.06.2016, so that the Respondent is not left with any documentary evidence which his office relied during ITR filing of the Complainant for the alleged FY(s).

- 3.3 The Complainant was doing mutual fund business consultancy, mutual fund commission business during the alleged FYs along with tuition imparting activity at Udaipur from July 2011 onwards. Hence, she was having mutual fund consultancy and commission income and Tuition Income. The Complainant never had any income from Jagannath Gupta Memorial Education Society and Jagannath University. The income from both these institutions were never shown as income in the ITRs filed of Complainant for alleged Financial Year(s). The TDS entries of Complainant for these alleged FYs by error of PAN, shown in 26AS pertains to Respondent's audit receipts from both these institutions. However, no audit income pertaining to these wrong TDS entries has been shown in the ITRs filed of the Complainant for the alleged FYs. It is a clear indication that audit receipts as wrongly shown in 26AS of the Complainant were never shown as income of the Complainant in the ITRs filed for the alleged FYs. Hence, there has been no bogus/fictitious/self-design Income by Respondent shown in the ITRs filed of the Complainant for the alleged FY(s).
- 3.4 The TDS Return of both these institutions are filed by their internal staff and none of the TDS returns of both these institutions have been ever filed by the Respondent. All these facts were also duly investigated by the Police I.O. in response to the FIR by the Complainant in this matter and further, statement on all these matters were also recorded by the Police I.O. for both these institutions. From the above facts, it is evident that there had been no malafide intention on the part of the Respondent as the mistake in quoting of wrong PAN was only for 4 monthly bills of F.Y. 2010-11. It had only been an error on the part of Respondent's office and that too at a time when the Complainant was residing with Respondent at Jaipur and there was no matrimonial dispute between the Complainant and the Respondent at that time.
- 3.5 For A.Y. 2012-13, the Income Tax Refund was received through cheque by the Complainant. The process of the same is that the assessee has to sign on the back side of the cheque and then this cheque is deposited in his designated bank account whereby the same is sent for clearing to the SBI. Then, SBI matches the signature of the assessee put on the back side of this cheque from the PAN database of the assessee at the Income Tax Department. If the signature of the assessee is found to be matched, then, the cheque is cleared and amount is credited to the assessee's bank account by the SBI Otherwise the Income Tax Refund amount is not credited to the assessee bank account by the SBI with a noting of "Signature Mismatch". This is a well-established and well-known procedure and to the best of the Respondent's knowledge, it cannot be compromised. In view of the

same, this is a proven fact that the Complainant has signed behind the cheque of the Income Tax Refund related to A.Y. 2012-13 which clearly means that she has full knowledge of Income Tax Refund and consequently full knowledge of the ITR being filed for the A.Y. 2012-13.

3.6 In such circumstances, it is proven and well-established fact that all the Income Tax Refunds and all the ITRs filed of the Complainant for the alleged FYs were well in knowledge of the Complainant. The Complainant in her complaint to ICAI in June 2019 submitted that she has lodged a Police FIR against the Respondent. However, after that, she has neither intimated nor submitted this Police Investigation Report of this FIR to the ICAI, whereby Police has closed this FIR by putting FR with noting that charges levelled by the Complainant are false.

3.7 The Respondent also brought on record a Complete chart showing matrimonial events and Court Cases between him and the Complainant:-

21.05.2010	Date of Marriage
June, 2011	Complainant Left/Desserted House of her husband i.e. the Respondent. This fact has been submitted in communication to the ICAI. It is critical to mention at that time, Complainant took only some of her clothes in one briefcase and all her remaining clothes, belongings, jewellery, documents etc. were lying at the house of her husband which were taken on 11.06.2016.
11.06.2016	Complainant came with her parents and brother at the house of Respondent at Jaipur and took all her clothes, belongings, jewellery, documents etc., and gave her handwritten receipt to the Respondent. This receipt was signed by both the parties along with their father. This was for the first time that there had been some talks for probable divorce between the parties.
February, 2018	In spite of above handwritten receipt, none of the parties initiated divorce proceedings till this date, as there were still efforts to save the matrimonial relations. It was initiated in February 2018 by the Respondent by filing divorce application at Family Court, Jaipur. Before this date, there had been no Police complaint or FIR/court cases at any other Forum between the parties.
April, 2018	Complainant lodged maintenance case at Family Court, Udaipur and after this event, there had been many Court cases instituted between both the parties indicating an era of litigation between both the parties, details are as follows:- <ul style="list-style-type: none"> • Interim maintenance application filed by Complainant at Family Court, Udaipur.

	<ul style="list-style-type: none"> • Transfer petition filed by Complainant at Hon'ble High Court Jaipur Bench. • Review transfer petition filed by Complainant at Hon'ble High Court, Jaipur Bench. • Section 482 application filed by Complainant at Hon'ble High Court, Jodhpur against interim maintenance order passed by Family Court, Udaipur. • Order 6 Rule 17 application filed by Complainant at Family Court, Jaipur. • Civil Writ Petition filed by Respondent at Hon'ble High Court, Jaipur Bench against Order 6 Rule 17. • SLP filed by Complainant at Hon'ble Supreme Court of India against above order of Hon'ble High Court of Jaipur Bench. • DB Appeal filed by Complainant at Hon'ble High Court Jaipur Bench against Divorce Decree passed by Family Court, Jaipur.
18.09.2020	A FIR bearing no. 0242 was lodged by Complainant against the Respondent at Police Station Malviya Nagar, Jaipur on the same grounds as in this complaint to the ICAI from the Complainant against the Respondent. The Police have closed this FIR by putting FR on the same on 12.06.2021.

3.8 The Respondent also gave the following brief summary regarding the ITRs filed by his office :-

Sl. No.	FY/AY	Date of Filing	Taxable Income (In Lakh)	IT Refund	Remarks
1.	FY 2011-12 AY 2012-13	23.03.2013	3.89	23000	IT refund cheque was lodged in bank A/c by the Complainant.
2.	FY-2012-13 AY-2013-14	26.03.2014	1.98	18400	IT refund directly credited in the Complainant's Bank A/c.
3.	FY-2013-14 AY-2014-15	18.03.2016	2.22	6760	IT refund directly credited in the Complainant's Bank A/c.
4.	FY-2014-15 AY-2015-16	18.03.2016	2.48	3320	IT refund directly credited in the Complainant's Bank A/c.

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The Respondent also stated that all the above Income Tax refunds of all above years were credited to the Complainant's Bank A/c with details as under: -

HDFC Bank Ltd., IFSC Code: HDFC0000007, A/c No. 00071050209237

This bank account was in the sole name of the Complainant and at no point of time, there had been any Joint Account Holder of this Account. Consequently, this bank account was under complete control and operation of the sole person i.e. the Complainant.

- 3.9 The Complainant has alleged that ITRs for the above-mentioned years were filed by the Respondent so as to make out his case by submitting these ITRs in the maintenance proceedings before the Family Court. However, none of the above years ITR of the Complainant have been even referred or submitted by him at any of the proceedings before any forum.

OBSERVATIONS OF THE BOARD:

- 4.1 At the outset the Board noted that in the instant case, the Complainant and the Respondent were the spouse but, certain disputes arose between them due to which Court cases were filed between them and now they had been formally divorced. The Complainant alleged that the Respondent filed her Income Tax Returns (ITRs) for four assessment years i.e., AYs 2012-13 to 2015-16 showing forged / bogus income without her knowledge and has also forged her signatures on the said ITRs. In this regard, the Board noted that the Respondent accepted that the said ITRs of the Complainant was filed by his office but at the same time, the Respondent argued that the same were filed by him with the complete knowledge of the Complainant since at that time, she was his wife and there were no Court cases instituted between them and thus, in routine, her ITRs were filed by him with her cognizance. The Board further noted that both the Complainant and the Respondent got married on 21.05.2010 but after one year of marriage, certain disputes started happening between them and the Complainant left Respondent's home in June 2011 and went to Udaipur at her parent's home / native place. It is also mentioned that the Complainant was residing at her parent's home only since June 2011.
- 4.2 The Board further noted that it is the case of the Complainant that the Respondent generated her bogus income from the financial years 2011-12 to 2014-15 by portraying her as an employee of M/s Jagannath University and M/s Jagannath Gupta Memorial Education Society which were Respondent's clients and accordingly filed her Income Tax returns. In this regard, the Board noted that the Respondent admitted that the Complainant had never done any job or any assignment in both these institutions. M/s Jagannath Memorial Gupta Educational Society was Respondent's client for three years from 2010-11 to 2012-13 and Jagannath University was the client from financial year 2010-11 to 2017-18. When the first bill was raised by the Respondent in that by mistake instead of writing Respondent's PAN number, Complainant's PAN number was written.

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After that, no such error was committed on the part of the Respondent. However, since it was written in the first bill, therefore both the institutions recorded PAN number of the Complainant against the Respondent's PAN number in their TDS master record.

- 4.3 The Board further noted that the Respondent informed that when his office gave further bills, they forgot to make the correction. It was a clerical error on their part, therefore, those entries appeared in the Form 26AS. This was absolutely not in the Respondent's knowledge because if it would have been in his knowledge, he would have requested for the correction to both the universities, and this has been brought to his notice after seven years by the Complainant by giving her registered post notice to both the institutions.
- 4.4 In this regard, the Board noted that the Respondent brought on record letter dated 31st May 2021 from both these Institutions addressed to the Investigation Officer, Police Station, Jaipur clarifying that the Complainant never worked in their respective institutions. Further, initially the PAN number belonging to the Complainant available in the bills provided by the Respondent was taken into the master record of both the Institutions and accordingly, it came in the ITRs but later, the Respondent provided the correct PAN number. But by that time the PAN number of the Complainant was registered in the Account Branch of the Institution and the Institutions failed to inform the Account Branch to update the same in their master record. Thus, the PAN number of the Complainant continued to be there on the TDS entries. Thereafter, the PAN number was changed by the Institutions when both the Complainant and the Respondent informed about the same in the Year 2018.
- 4.5 The Board further noted that the Income from both these institutions was never shown as income in the ITRs of the Complainant filed by the Respondent for alleged assessment year(s). The TDS entries of the Complainant for the alleged assessment year(s) by error of PAN, shown in Form 26AS pertained to Respondent's Audit receipt from both these Institutions. However, no audit income pertaining to these wrong TDS entries was shown in the ITRs of the Complainant filed by the Respondent for the alleged assessment year(s).
- 4.6 The Board also noted that the Complainant during the course of hearing accepted the fact that the refund was received in the form of draft at the address of the Respondent, and he had sent the same to her to deposit in the Bank. The Complainant on being asked by the Board during the course of hearing, whether she took the refund in the financial year 2011-12 of Rs.23,000/-, for the F.Y. 2012-13 refund of Rs.18,400/-, for the F.Y. 2013-14 of Rs. 6,760/- and for the F.Y. 2014-15 refund of Rs.3320/-, affirmed to have received the Income Tax refund and not returned it to anyone.
- 4.7 The Board also noted that the Complainant also filed the FIR in the Police Station Malviya Nagar, Jaipur in 2019 on substantially the same grounds as have been brought before the

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ICAI and the same was closed by the Police after investigation on the ground that false charges were levelled.

- 4.8 Thus, considering the facts and circumstances of the case, the Board noted that all the ITRs of the Complainant for the AY 2012-13 to AY-2015-16 were filed before the initiation of formal divorce proceedings between the Complainant and the Respondent. There are corroborative evidence to indicate that the filing of the ITRs of the Complainant for the AY 2012-13 to AY-2015-16 was in her knowledge. Further, the Board was of the view that it is an admitted fact that all the Income Tax Refunds for the said assessment years were well in the knowledge of the Complainant and infact the Income Tax refunds had been received by her in her individual bank account only which was solely under her control. Further, the receipts as wrongly shown in Form 26AS of the Complainant were never shown as income of the Complainant in the ITR filed for the alleged Assessment Year(s). There is no evidence to indicate that there had been malafide intention on the part of the Respondent in quoting of wrong PAN number on his bills or he gained anything out of it .Thus, the Board held that there has been no bogus/fictitious/self-design Income shown by the Respondent in the Income Tax Return of the Complainant for the AY 2012-13 to AY-2015-16. The evidence on record indicate that no misconduct as alleged is evident on the part of the Respondent. Accordingly, the Board held the Respondent NOT GUILTY in respect of the charge alleged.

CONCLUSION:

5. 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 First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act. 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. Rajendra Kumar P
(Presiding Officer)

Sd/-

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

Sd/-

CA. Priti Savla
(Member)

DATE: 07-02-2024

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
A. Uttika Gupta
सीए नैतिकता गुप्ता / A. Uttika Gupta
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विहार नगर, गान्धी, दिल्ली-110032
ICAI Bhawan, Vihar Nagar, Gandhi, Delhi-110032