



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

[PR-159/21/DD/149/2021/BOD/695/2023]

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 the matter of:-

CA. R. Balakrishnan (M. No. 023300)
6, Kulandai Velan Street
Main Road, Dindigul, Tamil Nadu

....Complainant

-Vs-

CA. K. Dhanaraja (M. No. 252825)
25, Ganapathy Agraharam
Dindigul, Tamil Nadu

....Respondent

[PR-159/21/DD/149/2021/BOD/695/2023]

MEMBERS PRESENT (through video conferencing):

CA. Rajendra Kumar P (Presiding Officer)
Ms. Dolly Chakrabarty (IAAS, ret'd.), Government Nominee
CA. Priti Savla, Member

Date of Hearing and passing Order: 4th December, 2023

1. The Board of Discipline vide its Findings dated 26th October, 2023 was of the opinion that CA. K. Dhanaraja (M.No.252825) is guilty of "Professional Misconduct" falling within the meaning of Item (8) of Part-I of the First Schedule of the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. K. Dhanaraja and communication dated 29th November, 2023 was addressed to him thereby granting him an opportunity of being heard before the Board on 4th December, 2023 which was exercised by him by being present through video conferencing. He confirmed the receipt of the Findings of the Board and concurred with the same. He also requested the Board to take sympathetic view in the case keeping in view the fact that he is in his early stage of his career.
3. Thus, upon consideration of the facts of the case and the consequent misconduct of CA. K. Dhanaraja (M.No.252825) and keeping in view his representation before it, the Board decided to impose a Fine of Rs.25,000/- (Rs. Twenty Five Thousand only) upon him and also warned him to be more cautious in future in complying with the Rules and the Regulation of ICAI.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, ret'd.)
(Government Nominee)

Sd/-

CA. Priti Savla
(Member)

प्रतिलिपि होने के लिए प्रमाणित /
Certified to be true copy

नीलम पुंडीर / Neelam Pundir
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
इसीएआई भवन, विश्वास मार्ग, बंगलूरु
ICAI Bhawan, Vishwas

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-159/2021/DD-149/2021/BOD/695/2023]

CORAM (present in person):

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

In the matter of:

CA. R. Balakrishnan (M. No. 023300)
6, Kulandai Velan Street,
Main Road, Dindigul
Tamil Nadu – 624001.

.....Complainant

Versus

CA. K. Dhanaraaja (M. No. 252825)
25, Ganapathy Agraharam,
Opposite Kanna Milk Dairy,
Dindigul
Tamil Nadu – 624001.

.....Respondent

DATE OF FINAL HEARING : 16th June 2023
PLACE OF FINAL HEARING : Chennai

PARTIES PRESENT (in person):

Complainant : CA. R. Balakrishnan
Respondent : CA. K. Dhanaraaja

FINDINGS:

CHARGE ALLEGED:

1. The Complainant was the Tax Auditor of Ms. Ahmed Buhari Faridha Begum (PAN AAWPF8565H) (hereinafter referred to as the 'client') for the past many years. He alleged

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that the Respondent accepted the Tax Audit of his said client for the AY 2020-21 without informing or getting his consent.

BRIEF OF PROCEEDINGS HELD:

2.

Date of Hearing(s)	Status
16 th June, 2023	Heard and concluded.

BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:

(a) Respondent:

3. The Respondent, in his defence, inter-alia, stated as under:
 - 3.1 The Respondent was registered with the Institute and got his Certificate of Practice only on 02-02-2020. He was a novice to the profession and the complaint that has been filed before the Disciplinary committee of ICAI is within the period of 18 months which has to be considered in disposal of the complaint. The Respondent was made to believe by the client that the Complainant was not cooperative in filing the Tax return. The Complainant in the rejoinder mentioned the e-mails that were exchanged between him and the accountant of the client which the Respondent was not aware of and he had no clue about what transpired between them.
 - 3.2 The client approached the Respondent on 03-02-2021 to file the Tax Return, but he refused to take up the assignment since the Tax Audit was conducted by the Complainant till earlier year. On 27-03-2021 the client came back requesting help in filing Tax Return and as time was running out 31-03-2021 being the last date, the Respondent filed the return for the client. In the rejoinder the Complainant mentioned that the Respondent solicited client by claim to reduce the tax liability. This is a false allegation and totally frivolous.
 - 3.3 The return of income was filed based on the tally data made available to him by the accountant. Whatever information and data were made available to the Respondent he filed the Tax return in true faith without realizing that he failed to comply with the Code of Ethics prescribed by the Institute.
 - 3.4 Considering his age and future, the Respondent pleaded that a lenient view may be taken and assured that hence forth he shall uphold the dignity of the profession with utmost care.

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(b) Complainant :

4. The Complainant, in his submissions, inter-alia, submitted as under:

4.1 The claim of the Respondent that he was not aware about the e-mails that was exchanged between him and the accountant is far from true and nullified as below:

(a) The computation of Capital Gains as per IT Act involves technical and complicated calculations and involves applying various Cost of Index numbers depending upon the year of purchase of property acquired.

2 If the reality is so, how can another CA (leave alone the Respondent) arrive at the same "Cost of acquisition" (exact to the extent of Rupee!) of Rs.787836/- as has been tabulated by the Complainant in his rejoinder dated 12-07-2021. It was simply a copy/paste work done by the Respondent and now claiming as if he was not aware of Complainant's original work is nothing but false and should be rejected.

4.3 The Respondent has not substantiated his working of the figures as arrived at by him in the Tax return through the 'Tally Data' submitted to him by the client.

4.4 The contention of the Respondent and trying to escape from punishment as he was novice to the profession should not be entertained by the Board of Discipline in view of the fact that he is none other than the son of senior member with long standing practice CA. Kanagaraja and are practicing jointly.

4.5 The Respondent gave his written statement to the Disciplinary Directorate knowing it to be false as detailed below:

(a) That he was forced/compelled to take up the audit blaming the Complainant of not co-operating with the assessee whereas the truth is Complainant was all along having constant touch with his client and sharing his work with her.

(b) The client approached the Respondent on 3rd February 2021 whereas the truth is she never approached him any time before 24-03-2021 as evidenced by the fact of email correspondences about the progress of her very same work and hence there is no necessity of Complainant's ex-client approaching the Respondent as back as in Feb 2021 which is totally a fabricated story conceived by the Respondent.

(c) He didn't have Complainant's mail id whereas the truth is the primary-id of assessee's profile was that of the Complainant only.

(d) He is having minimum practice of one year only and not having cases of his city livelihood is false whereas the truth is he is practicing along with his father.

(e) He obtained an afterthought letter from the Complainant's ex-client dated 27-03-2021 claiming he was not co-operating or available to her for taking up the Tax Audit and return filing for the AY 20-21 whereas the truth is she only had sent 'Tally Data' file in pen drive and other records on 21-03-2021 through her accountant Mr. Kannan and got updated through him of the work done by the Complainant for her. If the reality of the case is so, how she would have approached the Respondent as back as February 2021.

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4.6 The Respondent induced the Complainant's ex-client to reduce and evade the tax liability to the extent of Rs.168836/- and thus indulged in defrauding the Government, which is a shame on the profession.

OBSERVATIONS OF THE BOARD:

5.1 As regard the charge that the Respondent accepted the Tax Audit of the client for the AY 2020-21 without communicating in writing with the Complainant prior to the acceptance of the appointment, the Board took into view the requirement of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 which provides as under:

*"A Chartered Accountant in practice shall be deemed to be guilty of Professional Misconduct, if he-
Accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing."*

The Board observed that there are two essential requirements under Item (8) of Part I of the First Schedule to The Chartered Accountant Act, 1949 which are as follows:

- i. The communication should be prior to the acceptance of the appointment as auditor.
- ii. The communication should be in writing.

Further, the Council of ICAI has laid certain guidelines as mentioned in Para -1 of page no.166 of Code of Ethics – 2009 which read as below:

"The requirement for communicating with the previous auditor being a Chartered Accountant in practice would apply to all types of audit viz., statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit."

5.2 In the instant case, the Board noted that the Complainant was the Tax Auditor of the client for the A.Y. 2019-20. However, the Tax Audit of the client for the A.Y. 2020-21 had been performed by the Respondent. The Board noted that there is no evidence of communication by the Respondent with the Complainant prior to the acceptance of the Tax Audit of the client for the AY 2020-21. The Board also noted that the Respondent in his written submissions as well as during the course of hearing admitted that he did not communicate with the Complainant prior to the acceptance of the Tax Audit of the client for the AY 2020-21 as stated in the provisions of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. The Board also noted that the Respondent has explained the circumstances in which he was not able to communicate with the Complainant being the previous auditor prior to the acceptance of audit. However, the



Board was of the view that the explained circumstances do not absolve the Respondent from the responsibility cast upon him as an incoming auditor under the provisions of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

5.3 The Board also noted that subsequent to the conclusion of the hearing in the case the Complainant vide email dated 19th June 2023 unconditionally withdrew his complaint as the Respondent realised his mistake and pleaded guilty. Since the request for withdrawal of the case had been received subsequent to the conclusion of hearing, the same had not been taken into view by the Board while arriving at its Findings.

5.4 Thus, in view of the submissions and documents on record together with the acceptance of guilt on the part of the Respondent, the Board held the Respondent guilty in respect of the charge alleged against him.

CONCLUSION:

6. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

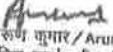
Ms. Dolly Chakrabarty (IAAS, retd.)
(Government Nominee)

Sd/-

CA. Priti Savla
(Member)

DATE: 26-10-2023

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Certified to be true copy.


अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनसमक निदेशालय / Disciplinary Directorate
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