

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/95/17/DD/26/INF/19/BOD/594/2021]

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. Satish Kumar (M.No. 081636), Delhi in Re:

DATE OF FINAL HEARING : 05th October 2023

PARTIES PRESENT : None

FINDINGS:

CHARGE ALLEGED:

1. The Income Tax Department conducted survey under section 133A of the Income Tax Act, 1961 in the office premises of the Respondent 'Padma Tower' in the affairs of G S Group as in one of the companies of the said group i.e., in G.S. Auto International the Respondent was Professional Director from 30.09.2010 to 01.06.2013. During the Survey operation, the Respondent submitted by giving statement u/s 131 of the Income Tax Act, 1961 on Oath of having received cash from the promoters of Group and providing accommodation entries to the Group of companies in the form of Share Capital/ Share Premium/ Share Application Money through various concerns.

BRIEF OF PROCEEDINGS HELD:

2.

S. No.	Date of Hearing(s)	Status of Hearing(s)
1	13 th December 2021	Adjourned.

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2	10 th January 2022	Adjourned.
3	17 th May, 2023	Adjourned at the request of the Respondent.
4	29 th June, 2023	Adjourned at the request of the Respondent.
5	22 nd August, 2023	Part-heard and adjourned with the direction to the Respondent to provide the following documents/information: (i) Copy of his Income Tax Assessment Order for the AY 2010-11 and 2011-12. (ii) An Affidavit to the effect that there had been no scrutiny in his case by the Income Tax Department for the AY 2010-11 and 2011-12. The Respondent submitted his response vide email dated 23 rd August 2023.
6	5 th October, 2023	Concluded on the basis of the documents and submissions on record.

BRIEF SUBMISSIONS OF THE RESPONDENT:

3. The Respondent in his defence, inter-alia, submitted as under:-
- 3.1 The Income Tax Department searched Respondent's office twice, first on 03-12-2014(survey), when IT raid was conducted on GS Auto Group Ludhiana and 2nd time on 09-07-2018, when an IT raid was conducted on SUPREME GROUP Jaipur.
- 3.2 Since the Respondent was a professional Director on the Board of GS Auto International from 30-09-2010 to 01-06-2013, the Income Tax Department with an ill informed and preset mind conducted a survey in Respondent's office at 1304 Padma Tower-1, Rajendra Place, New Delhi 110008. During the survey they pressured and threatened the Respondent that he should help them fix GS Auto Group or they will convert the survey into full search and spread the raid to all Respondent's other clients. So, this statement was made under pressure and coercion and Respondent is in no way connected with so called accommodation entries in G.S. Group.
- 3.3 To pressure the Respondent further, the Income Tax Department reopened Respondent's personal cases for A.Y. 2008-2009 and A.Y. 2009-2010 u/s 148. The Respondent contested their claim, and they could not find any wrongdoings or malpractice in Respondent cases. In both the years the Income Tax Department could not make any addition and

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reassessed Respondent's cases at the returned income. For the A.Y. 2009-2010 the AO wrongly made an addition of Rs. 29,29,700/- which was deleted by CIT (appeal). Claims of ACIT Ludhiana are disapproved and dropped by Income Tax Department's own assessing officers.

- 3.4 In Ass. Order of A.Y. 2012-2013 framed by ACIT, central circle-3, Jaipur, there is no mention of cash received from GS Group in July 2011 and no commission received on accommodation entries to GS Group. The Respondent submitted the copy of Assessment Order for AY 2012-13 and stated that there is no addition on account of link with GS Group Ludhiana. Further no cash was received in July, 2011. The Respondent further submitted that whatsoever addition was made was on other grounds and was illogical and baseless and his appeal against the same is pending. The Respondent also submitted acknowledgment of Form 35.
- 3.5 After the search on Supreme Group Jaipur, Respondent cases of 6 years from AY 2012-2013 to AY 2018-2019 were assessed u/s 143(3) and 153A and in these aforesaid mentioned 6 years, no work is done for GS Group and consequently these assessment orders disapprove the Ludhiana ITO claim that cash was exchanged during July 2011. No addition is made in 10 years from AY 2008-2009 to AY 2019-2020 on account of GS Group Ludhiana. The Income Tax Department was satisfied with all the explanations provided by the Respondent during the Reassessment Proceedings of these Assessment Years and could not find any wrongdoings or malpractice on the Respondent's part. Therefore, there was no need to retract his statement given under pressure during the survey on 03-12-2014.

OBSERVATIONS OF THE BOARD:

- 4.1 As regard the charge alleged, the Board noted that the Informant Department had recorded a Statement of the Respondent on Oath before ADIT (Inv.), Ludhiana under section 131 and 133A of the Income Tax Act, 1961 on 03.12.2014 in connection with a Survey conducted by Income Tax Department, Ludhiana, wherein he, inter-alia, deposed as under:

"Q5. Are you aware of the following companies mentioned below

- *G.S. Auto International Limited*
- *G.S Auto Comp Pvt Ltd.*
- *G.J Holdings (P) Ltd.*
- *Harvin Exports (P) Ltd.*
- *Pioneer Power Towers Ltd*
- *Disha Commercial (P) Ltd*



- *Balbir Investments (P) Ltd.*

Ans. All the above companies are known to me as they are related to each other and primarily to M/s G.S. Auto International limited. I am going to give you further details regarding the transactions between the above entities related to finance and business.

Transactions in my own hand follow:-

1. *In GJ Holdings P.Ltd they have raised about Rs 11.7 Crore which is financed as under-*

- Personal capital at G.S Promoters	Rs. 5,00,00,000
- Anshul Land holdings P. Ltd	Rs. 1,71,00,000
- Balbir/Disha commercial P Ltd	Rs. 2,00,00,000
- Score Crop	Rs. 3,00,00,000
	Rs. 11,71,00,000/-

2. *In Harvin exports P. Ltd they raised Rs 3,69,39,000/- which is financed as under:-*

- Anshul Land holdings P. Ltd	Rs. 1,50,00,000
- G.S. Promoters	Rs. 23,48,000
- G.S Auto comp P.Ltd	Rs. 50,00,000
- Disha/Balbir Investment P.Ltd	Rs. 1,50,00,000

3. *In Pioneer Power Towers Ltd., they have raised about Rs 3.80 Crore as under:-*

- Anshul Land and holding P.Ltd	Rs. 2,00,00,000
- Disha/Balbir Investment P.Ltd	Rs. 1,00,00,000

4. *Disha has also made investment of Rs 2,89,00,000/- in G.S Auto international Ltd. I am aware of fund routed through M/s Disha Commercials Pvt. Ltd., and M/s Balbir Investments Pvt. Ltd., as follow:-*

M/s G.J. Holdings Pvt. Ltd,	2,00,00,000/-
M/s Harvin Exports Pvt. Ltd	1,50,00,000/-
M/s Pioneer Power Towers Ltd	1,00,00,000/-
M/s Disha Direct to	
G.S. Auto International Ltd.	2,89,00,000/-
	<u>7,39,00,000</u>

The above amount of Rs 7.39 crore belongs to "G.S.Auto Group" and had been routed through our books into their G.S. Auto international Ltd. Rs 5 Crore was

received from G.S. Auto international Ltd, in to Greg Mercantile (P) ltd and Rs 2.39 Crore was received cash from promoters through internal channels.

This 5 cr received from G S Auto is shown as unsecured loan in our balance sheet of 31.03.2012. The amount of Rs 2.39 crore was also routed back into their companies.

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Q 15. Please state if you have provided any further accommodation entries for M/s G S Group of companies, if yes : Please provide the details?

Ans. As I have mentioned before, an amount of Rs. 2.39 crores was received by me in cash from the promoters of M/s G.S Group around July 2011 for the purpose of routing back the same to the promoters through accommodation entries through various companies, which I facilitated.

Q 16. Please give details regarding the key promoters from the G.S Auto group who handled and instructed you in the management of all such financial transaction and the accommodation entries, as stated by you earlier during the course of this statement u/s 131 of the I.T. Act 1961?

Ans. Mr. Neeraj Tuli was my key contact person from M/s G S Auto group. He need to pan on clear instruction to me after devising such schemes of accommodation entries and layering of investment through dummy companies."

Further, in the end of statement on oath, the Respondent had also declared in his writing as under:

"The all statement have been given by me are true word by word to the best of my knowledge. This statement has been given with the free will and without any fear pressure and coercion."

- 4.2 The Board further noted that the Informant Department brought nothing to corroborate their charge except the statement of the Respondent which they recorded on Oath at the time of Survey on 03-12-2014 despite the opportunity given.
- 4.3 The Board also observed that the Income Tax Department reopened Respondent's personal income Tax cases for A.Y. 2008-2009 and A.Y. 2009-2010 u/s 148 of the Income Tax Act 1961. The Respondent contested their claim and the Income Tax Department could not make any addition in the income of the Respondent for A.Y. 2008-2009. For the

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AY 2009-2010, the Assessing Officer made an addition of Rs.23,81,178/- which was subsequently appealed by the Respondent. The CIT(Appeals) – 20, New Delhi allowed the appeal and resultantly the Order of the Assessing Officer passed under Section 147/143(3) of the Income Tax Act 1961 was treated as invalid.

- 4.4 Further, the Board on perusal of the copy of the Respondent's Assessment Order(s) brought on record by him for the following years observed that addition of commission income had been there on the basis of his own Statement recorded before the Informant Department on 3rd August 2018 in certain Assessment Years(s):

S. No.	Name of the Assessee	Assessment year	Addition in Income	Reason for Addition	Income Tax Liability (Amount)
1.	Shri Satish Monga	AY 2010-11	No addition	-----	-----
2.	Shri Satish Monga	AY 2011-12	No addition	-----	-----
3.	Shri Satish Monga	2012-2013	Rs. 26,93,750/-	The amount of commission income is determined Rs.5,96,250/- for providing accommodation entry to Supreme Group. Another amount determined Rs.20,97,500/- as unexplained cash deposits.	Rs.20,80,990/-
4.	Shri Satish Monga	2013-2014	No addition	-----	-----
5.	Shri Satish Monga	2014-2015	No addition	-----	-----
6.	Shri Satish Monga	2015-2016	Rs. 3,93,098/-	The amount of commission income is determined Rs.1,27,500/- for providing accommodation entry to group GRG Mercantile Pvt Ltd during the A.Ys 2015-2016.	Rs.2,16,160/-

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				Another amount of 2,65,598 on account of commission for arranging bogus LTCG	
7.	Shri Satish Monga	2016-2017	No addition	-----	-----
8.	Shri Satish Monga	2017-18	No addition	-----	-----
9.	Shri Satish Monga	2018-19	No addition	-----	-----
10.	Shri Satish Monga	2019-20	No addition	-----	-----

4.5 On a combined perusal of the aforesaid documents, the Board noted that the instant case had been initiated on the basis of the Respondent's Statement on Oath dated 3rd December 2014 wherein he stated that he accepted cash around "July 2011". The Board further noted that addition of income had there been in the hands of the Respondent in the AY 2012-13 and AY 2015-2016 in respect of commission income from some other group i.e. Supreme Group, Jaipur and not in respect of the GS Group, Ludhiana for which the Charge is alleged against the Respondent in the instant case and that too on the basis of his Statement on oath recorded on 3rd August 2018. Further, the Informant Department did not bring on record any corroborative and conclusive evidence to substantiate the way and the manner in which accommodation entries had been provided by the Respondent to the GS Group which is considered essential to establish the misconduct alleged on the part of the Respondent.

4.6 Thus, on a detailed perusal of the submissions and documents on record, the Board was of the view that the Informant Department has not been able to substantiate with corroborative and conclusive documentary evidence its claim that the Respondent received cash from the promoters of GS Group for providing accommodation entries to

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the Group of companies in the form of Share Capital/ Share Premium/ Share Application Money through various concerns. In view of the same, 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 the 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)

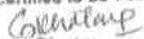
Sd/-

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

Sd/-

CA. Priti Savla
(Member)

DATE: 23-01-2024

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

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