

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2023-2024)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No.: [PR-379/2020-DD/08/2021/DC/1594/2022]

In the matter of:

CA. Trilochan Singh Kakkar (M.No. 011327),
Proprietor, M/s T S Kakkar & Co.,
Chartered Accountants
H-7, Kirti Nagar,
New Delhi-110015

.... Complainant

Versus

CA. Anjana Grover (M. No. 517467)
Proprietor, M/s Anjana Grover & Associates
Chartered Accountants
Office no. 406, 4th Floor,
Ansal Sundaram Building,
Raj Nagar District Centre
Ghaziabad-201001

.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (Present In person)
Smt. Rani Nair, I.R.S. (Retd.), Government Nominee (Present In person)
Shri. Arun Kumar, I.A.S. (Retd.), Government Nominee (Present In person)
CA. Sanjay Kumar Agarwal, Member (Present In person)

DATE OF FINAL HEARING : 23.06.2023 (Through physical /Video Conferencing Mode)

PARTIES PRESENT

Complainant : Not Present
Respondent : CA. Anjana Grover (In Person)

BACKGROUND OF THE CASE:

1. The brief background of the case is that the Complainant had audited the accounts of sole proprietary concerns of Mr. Davinder Singh and Mr. Sehej Madan (i.e. the son of Mr. Davinder Singh) for the financial year ending on 31st March 2018 (FY 2017-18). It is also stated that the Respondent had audited the accounts of sole proprietary concerns of Mr. Davinder Singh and Mr. Sehej Madan for the next financial year ending on 31st March 2019 (FY 2018-19).

CHARGES IN BRIEF: -

2. The Committee noted that the allegation against the Respondent was that the Respondent had audited and signed the annual accounts of Mr. Davinder Singh and Mr. Sehej Madan (hereinafter jointly referred to as '**clients**' / '**auditees**') for FY 2018-19 which were backdated and without actually auditing the accounts.
3. The Committee noted that the Respondent in his reply at the stage of PFO had, inter-alia, mentioned as under:
 - a. That the allegations in the instant complaint were exaggerated and on account of improper understanding of complete facts.
 - b. That in the beginning of June 2020, Mr. Davinder Singh approached her to undertake the Audit and Tax consultation works of his family businesses while giving the reason for change of Auditor that the present Auditor i.e., the Complainant was aged and was not able to conduct Audit in time. Thus, the Respondent accepted the audit of two family businesses of Mr. Davinder Singh for FY 2018-19 onwards.
 - c. That, after examination of the records, the Respondent's staff member was instructed to prepare Form 3CB and 3CD on offline utility and to use a prefilled Form 3CB and 3CD by replacing previous client's data with the new client's data. But the staff member did not change the dates, due to which the dates were mentioned in the forms as 30th June 2019. It was

stated that the same thing happened in case of Mr. Sehej Madan's data as the date mentioned in the forms was 31st August 2019.

- d. That, the unintended omission had an effect that the Audit reports appeared like they were antedated. However, this was the result of a clerical error and the client had nothing to benefit by deliberately dating the documents to a past date when the filling of the same with the Income Tax department was done late in July-August 2020.
 - e. That, in respect of Mr. Davinder Singh, the actual date of furnishing of Tax Audit report was 8th August 2020 and in respect of Mr. Sehej Madan, the date of furnishing of Tax Audit report was 10th July 2020.
4. The Director (Discipline) in Prima Facie Opinion dated 07th July, 2022 with respect to **first leg of charge**, relating to backdating, noted that
- a. As per conversation on record, the Complainant was doing audit for the F.Y. 2018-19 of the entities till June 2020 as the Respondent herself accepted that she was approached by the clients in June 2020.
 - b. Mr. Davinder Singh had also deducted TDS of the Complainant for FY 2018-19.
 - c. That as per documents on record, it is coming out that Form 3CB and 3CD along with balance sheets of Mr. Davinder Singh had been signed by the Respondent on 30th June 2019 and that of Mr. Sehej Madan had been signed by the Respondent on 31st August 2019.
 - d. Respondent admitted about the clerical error and mentioned that actual dates were 8th August 2020 and 10th July 2020 in respect of audit of Mr. Davinder Singh and Mr. Sahej Madan respectively.
 - e. The Complainant signed the audit report for F.Y. 2017-18 in the case Mr. Davinder Singh on 24th July 2019, whereas date of audit report for F.Y. 2018-19 signed by the Respondent of same client was 30th June 2019.
 - f. The Respondent also produced engagement letter which were dated 15th April 2019 and 24th July 2019 respectively. The Respondent also produced management representation letters which were dated 10th July 2018 and 5th August 2019 respectively. These letter raises doubt on authenticity.

- g. Hence, it was viewed that the Respondent had signed the annual accounts and Form 3CB and 3CD of her clients / auditees antedated in collusion with them which is highly unbecoming of a Chartered Accountant. Along with this, the Respondent has also violated the provisions of SA-700 which mentions that "*The auditor's report shall be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements*".

Accordingly, the Director (Discipline) held the Respondent *prima facie* **Guilty** of Professional and 'Other' Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule and Item (2) of Part-IV of First Schedule to the Chartered Accountants Act 1949

- 4.1 With respect to **second leg of the charge** that the Respondent had signed Forms 3CB and 3CD of the auditees in respect of FY 2018-19 without actually auditing the accounts, the Director (Discipline) noted that:
- a. Working papers produced by the Respondent were of negligible amount. The Respondent produced papers for only 12 lakhs whereas direct income of Mr. Davinder Singh was Rs. 7.73 crores and direct expenses were Rs. 6.52 crores. Similar observation is also for Mr. Sahej Madan.
 - b. The Respondent had mentioned that audit reports of the auditees were actually filed in July and August 2020, however, she did not provide her audit working papers, despite the same were specially called from her by the Director (Discipline).
 - c. This once again was in contravention of requirement of provisions of SA 230 / SQC 1 where the minimum retention period for audit working papers has been prescribed as seven years from the date of auditor's report.
 - d. Thus, in the absence of sufficient documentary evidence(s) provided by the Respondent as well as keeping in view of the observations made in preceding paras, it raises doubt that the Respondent had signed the Form 3CB and 3CD / tax audit reports of the auditees without actually auditing / examining their books of accounts and without retaining sufficient audit working papers.

5. Accordingly, the Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional Misconduct and Conduct of Cases) Rules, 2007, held the Respondent Prima facie **Guilty** of Professional and Other Misconduct falling within the meaning of Items (2), (7) and (8) of Part I of the Second Schedule and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949. The said items to the Schedule to the Act, states as under:

Item (2) of Part IV of First Schedule:

“A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he—

(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.”

Item (2) of Part I of the Second Schedule

“A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he—

(2) certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice.”

Item (7) of Part I of the Second Schedule

“A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he—

(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;”

Item (8) of Part I of the Second Schedule

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he-

(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;"

SUBMISSIONS OF THE RESPONDENT ON PRIMA FACIE OPINION:

6. The Committee noted that the Respondent in her written submissions had, inter-alia, mentioned as under:
- a. That she had properly conducted the audit of two sole proprietary concerns of Mr. Davinder Singh and Mr. Sehej Madan for the financial year ending on 31st March 2019 and it is a baseless allegation that Respondent had inappropriately and illegally signed the accounts of sole proprietary concerns. The Respondent submitted that she had verified the accounts of both the Firms before signing the financial Statements.
 - b. Due to the nature of business of M/s Kaka Transport, the major part of Income was earned by Shri Davinder Singh through Cash and rest was being received in Bank.
 - c. That although the data and record of the clients for the year of audit was voluminous and also it was impossible to keep 100% record of all the invoices and vouchers but as a part of audit documentation, copy of various documents from each head of expenditure (Direct & Indirect both) have been maintained by the Respondent.
 - d. The Respondent stated that Shri Sehej Madan was basically into the business of dealing in transportation of goods under the name of M/s Bani Tradelink and for the same purpose he acted as the agent of two companies namely Parle Products Pvt Ltd and Parle Biscuits Private

Limited. Sehej Madan also earned Rental Income by renting out its Godown to Sehej Enterprises Private Limited.

- e. That the Complainant was not co-operating with both the clients and hence the clients approached the Respondent, initially, in the month of April 2019, as they wanted to change their previous auditor for the FY 2018-19. On the same, she told them that apart from 'No Objection', she also requires audited accounts of the Firms for FY 2017-18 for initiating the work.
- f. The Proprietors of both the Firms told the Respondent that since the Complainant was still carrying out the process of Auditing the accounts for FY 2017-18 hence records would be available only after he completes his audit for FY 2017-18.
- g. The clients further told the Respondent that they were suffering as their staff instead of focusing on daily business activities were involved in the Audit Process for most part of the year with the Complainant.
- h. Despite this conversation, the clients issued an appointment letter to the Respondent, but the Respondent decided to initiate the communication with the previous auditor only after the completion of audit of Financial Statements for FY 2017-18 by the Complainant.
- i. The Respondent, accordingly, received the appointment letter for both the sole proprietary concerns of Mr. Davinder Singh and Mr. Sehej Madan for the financial year ending on 31st March 2019 so that the audit work could be carried out in future.
- j. In the meanwhile, both the clients also issued MRLs to the Respondent for the FY 2018-19 for both the firms but at that time also Audit for the FY 2017-18 was still incomplete.
- k. During the year 2020, pandemic was announced and the whole of India went into locked down and everyone was working from home. During that time, both the clients again approached the Respondent in the month of June and communicated the fact that their audit for FY 2017-18 was

completed late and asked her to carry out the work related to Audit for the FY 2018-19 as discussed in year 2019 on the basis of previous appointment letter and MRL already issued to the Respondent.

- I. Due to the pandemic times, the Respondent did not ask for fresh MRL and appointment letter again and decided to proceed with the ones issued earlier.
- m. She also initiated a tele-communication with the Complainant, but his mobile was switched off at that time and hence the Respondent sent the communication letter through courier as very limited services were available at that time and that too at particular time of the day. The Courier receipt so obtained at that time could not be found as it has been lost somewhere in office records.
- n. That after waiting for reply of the Complainant for a period of 10-15 days she began her audit work and for that purpose some of the records like tally data and certain bills, bank statement, TDS Challans were provided through e- mails and rest of the data was handed over in physical form.
- o. As regard the charge of back dating, she wishes to re-iterate that it was just a human/clerical error because of which previous dates were mentioned. Some old format was used by the staff of the Respondent because of which this error has occurred and hence it was just an inadvertent error and the Respondent apologizes for the same.
- p. In respect of Mr. Davinder Singh, the actual date of furnishing of Tax Audit report was 8th August 2020 and in respect of Mr. Sehej Madan, the date of furnishing of Tax Audit report was 10th July 2020.
- q. Thus, the Respondent humbly requested that she may kindly be pardoned for such an inadvertent error and there was no malafide intention behind it.

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BRIEF FACTS OF THE PROCEEDINGS:-

7. The Committee noted that the instant case was fixed for hearing on following dates:

S.No.	Date	Status of Hearing
1.	31.05.2023	Part Heard and Adjourned
2.	23.06.2023	Heard and Concluded

8. On the day of first hearing held on 31st May 2023, the Committee noted that the Respondent was physically present at ICAI Bhawan, New Delhi. The Committee further noted that the Complainant was not present, however, he submitted in his email/letter dated 27th May 2023, that he was 81 years old and was not in a position to attend the hearing. He accordingly requested that the Committee may decide the case based on documents available on record.
- 8.1 The Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether she was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges levelled against her. Thereafter, looking into the fact that this was the first hearing, the Committee decided to adjourn the hearing to a future date.
9. On the day of second and final hearing held on 23rd June, 2023, the Committee noted that the Respondent was physically present at ICAI Bhawan in New Delhi. The Committee further noted that the Complainant vide his earlier email dated 22nd June 2023 had mentioned that he is 81 years of age and not physically fit to appear; hence, the Committee may decide the case based on documents on record.
- 9.1 Thereafter, the Committee asked the Respondent to make her submissions. The Respondent in her submissions had ,inter-alia, mentioned as under:
- a. That she had done the audit after due examination of books of accounts and she had already submitted all the documents considered by her for audit purpose.

- b. That in tax audit, erroneously wrong date was mentioned, however, the actual date of filing was 8th August 2020 and 10th July 2020.
- c. That the clients were in the business of transportation and she had examined/verified all the related documents.
- d. That most of the expenditure incurred by the clients are in case due to the nature of their business and all the relevant vouchers were being submitted inspite of which she was held Guilty.
- e. That the clients approached her in 2018-19 to complete the audit. That she had informed them she can do audit only after obtaining NOC from previous auditor and also the records of financial year 2017-18.
- f. The clients again approached her in June 2020, and informed her that she could start the audit of their firm on the basis of MRLs issued by them.
- g. That she tried to contact the Complainant over phone but his phone was switched off and due to Covid, courier services were also not available hence she started the audit.

9.2 Thereafter, the Committee posed certain questions to Respondent to understand the issue involved and her role in the case. Accordingly, the Committee, after considering all papers available on record and detailed deliberations and recording of the submissions, decided to conclude the matter.

FINDINGS OF THE COMMITTEE

- 10. The Committee observed that the **first leg of charge** against the Respondent were of signing of the accounts of sole proprietary concerns of Mr. Davinder Singh (M/s Kaka Transport Co.) and Mr. Sehej Madan (M/s Bani Trade Links) for the financial year ending on 31st March 2019 on the back dates, and even without auditing the accounts.
- 10.1 The Respondent on merits submitted that she had done the audit after due examination of books of accounts. Further the actual date of furnishing of Tax Audit report was 8th August 2020 and in respect of Mr. Sehej Madan, the date of furnishing of Tax Audit report was 10th July 2020 however due to clerical error of her staff, wrong date was mentioned on the reports.

- 10.2 The Committee in this regard noted from the submissions of the Complainant given in rejoinder at prima-facie stage that the Complainant himself accepted the fact that the tax audit report of Mr. Davinder Singh was filed on 8th August 2020 and of Mr. Sahej Madan on 10th July 2020. The Committee further noted that the Complainant further submitted that the act of the Respondent for signing audit report on 30th June 2019 was for saving the client from Income Tax penalties. The Committee on the same noted that for purpose of tax penalties date of filing of audit report is taken into account rather than date of signing of tax audit report.
- 10.3 The Committee looking into the acceptance of the Complainant regarding filing of audit report with Income tax Department in the year 2020 accepted the stand of the Respondent that date of the tax audit report was inadvertently mentioned wrong.
- 10.4 The Committee noted that neither the Respondent nor the clients/auditees got any benefit as a result of clerical error. The Committee also noted that there is nothing on record which shows that error was deliberate with malafide intention.
- 10.5 The Committee accordingly was of the view that though the Respondent was required to be more vigilant while signing the financials, yet, looking into the fact that the audit report was filed with the Income Tax department in 2020, decided to accept the submissions of the Respondent that it was a clerical mistake. Accordingly, the Respondent was held **Not Guilty** of this charge.
11. With respect to **second leg of the charge** reading non- checking of documents, the Committee noted that in support of her contention that she had verified all the relevant documents before concluding the audit, the Respondent had produced on record various vouchers and other documents relevant for conducting tax audit as under:

With respect to audit of Mr. Davinder Singh

- Copy of Cash Vouchers for all the branches.
- Bills of Tyre, Tubes , Flaps Diesel , Labour Bill , Electricity Bill, Challans of Road Tax, Printing & Stationeries bill etc.

- Bank Statements for all the Banks.
- Loan Schedules along with bifurcation of Interest & Principal Amount.
- TDS Calculations, Challans and TDS Returns Statement.
- Invoice of Fixed Assets Purchased during the year.
- Calculation of ESIC and PF and related challans & returns of ESIC & PF.
- Electricity Expenses and Telephone Expenses chart.

Similarly for audit of Mr. Sahej Madan, the Respondent produced an excel sheet is attached giving bifurcation of monthly Expenses under various head along with certain compliance calculations with invoices and vouchers.

- 11.1 On an overall consideration, the Committee observed that the Respondent had been made prima facie Guilty on the grounds that she had failed to brought on record her relevant working papers even within one year of asking the same.
- 11.2 However, subsequently at the hearing stage, the same had been produced by the Respondent therefore it can be concluded that the Respondent had not colluded with the clients and had performed her duties due diligently.
- 11.3 Further, there are no contra evidence to negate the defence of the Respondent. The Committee was of the view that the Respondent was having sufficient documents with her to conduct the audit and submit the tax audit report. Accordingly, the Committee held the Respondent **Not Guilty** on this charge too.

CONCLUSION:

12. In view of the above observations, considering the submissions of the Respondent and documents on record, the Committee held the Respondent **NOT GUILTY** of Professional and 'Other' Misconduct falling within the meaning of Items (2), (7) and (8) of Part-I of Second Schedule and Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

ORDER:

13. Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case against the Respondent.

SD/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

SD/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

SD/-

(SHRI. ARUN KUMAR, IAS, RETD.)
GOVERNMENT NOMINEE

SD/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

DATE : 07TH FEBRUARY, 2024

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
Nitika Gupta
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अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
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