



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-I (2024-2025)]]

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

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949
READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT
OF CASES) RULES, 2007.

In the matter of:

Shri Anand Kumar, IRS, Commissioner of Income Tax (Exemption),
Kolkata

-Vs.-

CA. Arunabha Chattopadhyay, (M. No. 058457), Kolkata
[PR/G/108/2017/DD/114/2017/DC/1662/2022]

Members present:

- i) CA. Charanjot Singh Nanda, Presiding Officer
- ii) Shri Jugal Kishore Mohapatra, IAS (Retd.) (Government Nominee)
- iii) CA. Gyan Chandra Misra, Member

Date of Hearing : 14.05.2024

Date of Order : 20.08.2024

1. That vide findings dated 08-02-2024 under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee noted that **CA. Arunabha Chattopadhyay, (M. No. 058457)** (hereinafter referred to as the **Respondent**) was held **GUILTY** of professional misconduct falling within the meaning of item (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949.

2. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication dated 03-05-2024 was addressed to him thereby granting opportunities of being heard in person / through video conferencing and to make written & verbal representation before the Committee on 14-05-2024.

Shri Anand Kumar, IRS, CIT (Exemption), Kolkata-Vs.- CA. Arunabha Chattopadhyay, (M. No. 058457), Kolkata



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3. The Committee noted that despite serving notice for hearing, neither the Respondent was present, nor any adjournment request has been placed by him. The Committee observed that in its previous hearing held on 2nd April 2024, an adjournment was sought by the Respondent and the same was granted to him. Accordingly, since one adjournment was already granted to the Respondent, the Committee decided to proceed in the matter ex-parte.
4. The Committee considered the reasoning as contained in findings holding the Respondent Guilty of Professional misconduct vis-à-vis written submissions of the Respondent.
5. The Committee thus viewed that the Professional misconduct on the part of the Respondent has been established within the meaning of item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.
6. Keeping in view the facts and circumstances of the case, material on record and based on the findings of the Committee, the Committee ordered that, the **name of the Respondent i.e., CA. Arunabha Chattopadhyay (M. No. 058457) be removed from the Register of Members for a period of 3 months and also to impose a fine of Rs. 1,00,000/- (Rupees One lakh only) upon him to be paid within 90 days of receipts of this Order. The Committee also ordered that if the Respondent fails to pay the fine within the stipulated period as aforesaid, his name be removed from the Register of Members for an additional period of 30 days.**

Sd/-

CA. CHARANJOT SINGH NANDA
(PRESIDING OFFICER)

Sd/-

(SHRI JUGAL KISHORE MOHAPATRA, I.A.S.
(RETD.)) (GOVERNMENT NOMINEE)

Sd/-

(CA. GYAN CHANDRA MISRA)
(MEMBER)

DATE: 20.08.2024
PLACE: New Delhi

सही 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
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

Shri Anand Kumar, IRS, CIT (Exemption), Kolkata-Vs.- CA. Arunabha Chattopadhyay, (M. No. 058457), Kolkata

Shri Anand Kumar

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (2023-2024)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

Ref. No. – [PR/G/108/2017/DD/114/2017/DC/1662/2022]

In the matter of:

**Shri Anand Kumar,
Commissioner of Income Tax (Exemption),
10B, Middleton Row,
6th Floor, Kolkata – 700071**

.....Complainant

Versus

**CA. Arunabha Chattopadhyay (M. No.058457),
74, Purbachal Road (North)
Beside Bidhan Road,
Kolkata – 700 078**

.....Respondent

MEMBERS PRESENT: -

- i) CA. Aniket Sunil Talati, Presiding Officer**
- ii) Shri Jugal Kishore Mohapatra, IAS (Retd.) (Government Nominee)- Through Online Mode**
- iii) Shri Prabhash Shankar, IRS (Retd.), (Government Nominee)**
- iv) CA (Dr). Rajkumar Satyanarayan Adukia, Member**
- v) CA. Gyan Chandra Misra, Member**

DATE OF FINAL HEARING : 31-10-2023
PLACE OF FINAL HEARING : New Delhi / Through Video Conferencing

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PARTIES PRESENT:

Complainant Representative : **Shri Manish Kanojia**
Respondent : **CA. Arunabha Chattopadhyay**

1- BRIEF OF THE DISCIPLINARY PROCEEDINGS: -

On the day of the hearing held on 31st Oct 2023, the Committee noted that the Respondent was present through VC. The Complainant representative was also present. Thereafter, the Respondent was put on oath and on being enquired as to whether he is aware of the charges levelled against him and whether he pleads herself guilty or not; the Respondent submitted that he is aware of the charges and pleaded himself not guilty. The Respondent and the Complainant's representative made their detailed submissions on the allegation. The Committee also posed questions to the Respondent. After hearing the submissions, the Committee decided to **conclude** the hearing in the above matter.

2- BRIEF BACKGROUND OF THE MATTER: -

The Complainant has informed that during a survey operation u/s 133A of the Income Tax Act, 1961, it was found that M/s. Matribani Institute of Experimental Research and Education (hereinafter referred to as the "Society") was involved in misusing provision of Section 12AA, 10(21) and 35(1)(ii) of the Income Tax Act, rather they have used the benevolent opportunity of these provisions for their own benefit. The Society was found to be involved in money laundering through receipts of scientific research contribution from various corporate/firms/individuals situated all over India and paying them back in cash in return. Scientific research contribution so received was repaid in cash through web of financial transactions of bogus purchases. These purchases were claimed as application of income. The Complainant further stated that a chain of brokers/middlemen were involved who used to facilitate the alleged transactions. In these transactions commission in cash was involved from 15% to 20% depending upon the needs of customers and the chain of brokers. Such Society used to gain 10% commission in cash or adjustment of accounts.

The corporate/firms/individuals each used to get weighted deduction of 175% of donation leading to huge tax evasion. The volume of transactions were beyond imagination as there was rampant misuse of provision of Section 35(1)(ii) of the Income Tax Act, 1961. The Respondent was the auditor of the Society for F.Y. 2012-13 and 2013-14.

3- CHARGES IN BRIEF: -

The Respondent was the auditor of the Society for FY 2012-13 and 2013-14 and it has been alleged by the Complainant that he being the auditor of the Society was not only involved in a financial crime conducted by the office bearers of the Society, but also indulged into the financial crime by keeping himself silent instead of performing his duty to bring such malpractices before the Complainant Department.

4. SUBMISSIONS OF THE PARTIES/PLEADINGS

It is observed that the Respondent during the course of hearing and also through his written statement has inter-alia made the following submissions in his defence:

- 4.1 The Respondent submitted that he audited the accounts of the Society for the financial years 2012-13 & 2013-14 and received a sum of Rs.3,000/- for each year as audit fee. The audit reports were prepared based on the bank statements, bills, vouchers, relevant documents & records whatsoever furnished by the said Society in the course of the audit, and he found that 100% receipts & 90% of the payments were made through proper banking channel and there was no reason for him to doubt the transactions. Further, it was not possible for him to examine the donors in person and an auditor can't verify the 2nd layer & 3rd layer of any transaction.
- 4.2 He further submitted that most of the donors of the Society were from outside India and due to lack of time he could not examine all relevant details of the donors despite the fact that he was duty bound to do the same in the instant matter. He categorically reiterated that he relied only on the documents produced before him by the Society during the course of his audit, however, could find time for examination of third-party confirmation or donor verification.

5- FINDINGS OF THE COMMITTEESS

Before giving findings in the matter, the Committee noted the following background about the facts which are given here-in-below:

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- 5.1 The Committee noted that the essence of the allegation is that the Society was collecting donation from various donors and the amount so collected was shown as incurred towards the objective of the Society but it is found during the inspection conducted by the Complainant department that the Society was paying back the amount in cash to the donors and the collected amount was shown to be incurred against bogus purchase but the Respondent being auditor of the Society for the financial years 2012-13 and 2013-14 failed to report the same in his audit report and remained silent even though he may have detected such bogus transactions had he conducted audit in diligent manner.
- 5.2 The Committee observed that the Respondent in his defence has failed to tender any just reasons that would have been in this favour, infact he admitted that due to lack of time he was not able to perform thorough checks & donor verifications.
- 5.3 The Committee noted that when the Respondent was questioned to apprise/furnish the detail of the audit procedures followed by him while carrying out the audit of the Society, he merely reiterated that he relied upon the documents produced before him by the Society. On his response, the Committee noted that the Respondent has failed to exercise the minimal level of due diligence that could have supported him to be a witness of the wrongful practices of the Society on such high scale and hence the mere averments made by the Respondent were disregarded by the Committee. The Committee also viewed that the Respondent being an auditor of the Society, was required to verify nature and authenticity of purchase transaction shown in the financial statements of the Society. However, it appears that he merely relied upon the financial statement prepared by the management of the Society at its face value without verifying the necessary documents / record in respect of the donors and the purchase transaction of the Society.
- 5.4 The Committee also noted that if the Respondent had verified the purchases made by the Society by verification of goods inward register or supplier confirmation or other GST or TDS compliances etc., he could have come to know about the said bogus purchases. The Committee also noted that the Respondent failed to tender any clarification/ just reason that would have satisfied the Committee that he has followed his professional scepticism while carrying out the subject audit of the Society, the Committee is of the view that the Respondent as auditor not only failed to obtain sufficient information to express his opinion, but he was also grossly negligent in performing his professional duties as auditor of the Society. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause, (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION: -

Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. Aniket Sunil Talati)
PRESIDING OFFICER

Sd/-
Sh. Jugal Kishore Mohapatra, IAS (Retd.)
GOVERNMENT NOMINEE

Sd/-
(Shri Prabhash Shankar, I.R.S. (Retd.))
GOVERNMENT NOMINEE

Sd/-
CA (Dr). Rajkumar Satyanarayan Adukia
MEMBER

Sd/-
(CA. Gyan Chandra Misra)
MEMBER

DATE : 08.02.2024

PLACE : NEW DELHI

सही प्रतिलिपि हामी इति प्रमाणित

Certified to be true copy



अरुण कुमार / Arun Kumar

वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer

अनुशासनात्मक निदेशालय / Disciplinary Directorate

इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया

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