



\$~145

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11944/2021**

**HARINDERJIT SINGH**

..... Petitioner

Through: Mr. Neeraj Kishan Kaul, Senior Advocate with Mr. Kamal Shankar, Mr. Gautam Varma, Mr. Vatsala Rai, Mr. Atul N. Raghav Chadha, Ms. Pritha Suri and Ms. Ira Mahajan, Advocates.

versus

**DISCIPLINARY COMMITTEE BENCH III THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA & ANR.**

..... Respondents

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

% **26.10.2021**

**[VIA VIDEO CONFERENCING]**

**CM No. 36961/2021(for exemption)**

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

**CM No. 36960/2021(for stay) in W.P.(C) 11944/2021**

3. The present petition impugns the disciplinary proceedings initiated against the petitioner vide letter dated 6<sup>th</sup> December, 2018 issued by respondents.
4. Mr. N.K. Kaul, Senior Counsel appearing on behalf of the petitioner submits that the petitioner is a senior partner with a partnership firm Price



Waterhouse & Co. Chartered Accountants LLP (the Firm) and the disciplinary proceedings against the petitioner are wholly without jurisdiction. He draws the attention of the Court to Rule 8 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (Investigation Rules) to contend that when the alleged offence is in respect of a Chartered Accountant Firm, a notice has to be issued to the Firm to disclose the name of the member/members concerned and the Firm is obliged to send a declaration giving name of the member/members who would be responsible for answering the complaint.

5. Pursuant to the above regulation, a communication dated 17<sup>th</sup> April, 2018 (Page 107 of the electronic file) was issued by the Firm disclosing the name of one Mr. Neeraj Kumar Gupta who would be answering in respect of the complaint on the basis of which the disciplinary proceedings have been initiated. The said Mr. Neeraj Kumar Gupta also sent a communication dated 17<sup>th</sup> April, 2018 (Page 119 of the electronic file) wherein he has agreed to answer any queries relating to the notice issued to the Firm. I am informed that disciplinary proceedings are continuing against Mr. Neeraj Kumar Gupta.

6. Senior counsel on behalf of the petitioner draws attention of the Court to the communication dated 14<sup>th</sup> June, 2018 wherein the Director (Discipline) of the respondent no. 1 has observed as under:

*8.15.4 Further, although Rule 8 (2) of CA Rules, 2007 provide that the answering firm needs to disclose the name of such member who was associated, either as partner or employee, with the firm, against which the complaint has been filed, at the time of occurrence of the alleged misconduct, it is not clear as to on*



*what basis, the firm has declared the name of CA. Neeraj Kumar Gupta as member of answerable or as to how and why CA. Harinderjit Singh (M. No. 086994), another partner was asked to submit the signed written statement whereby he also becomes the member answerable. At this stage, one would refer this matter also for further investigation.*

7. The said opinion of the Director (Discipline) has been agreed to by the Disciplinary Committee, as communicated to the petitioner vide letter dated 6<sup>th</sup> December, 2018 and the petitioner has been asked to appear before the Disciplinary Committee. The petitioner appeared before the Disciplinary Committee and also filed an application for discharge, however, the same is yet to be decided. Yet, another notice has been issued to the petitioner to appear before the Disciplinary Committee on 29<sup>th</sup> October, 2021.
8. It is contended on behalf of the petitioner that once the mandate under the Rules has been complied with and Mr. Neeraj Kumar Gupta has been designated as a partner to deal with the notice issued to the Firm and Mr. Neeraj Kumar Gupta is duly appearing before the Disciplinary Committee, disciplinary proceedings initiated against the petitioner are completely without jurisdiction. It is further contended that the Disciplinary Committee has failed to apply its mind while agreeing with the prima facie opinion of the Director (Discipline).
9. Prima facie, there is merit in the submissions made on behalf of the petitioner.
10. None appears on behalf of the respondents despite advance service.
11. Issue notice. Let notice be issued through all permissible modes.
12. Reply be filed within 4 weeks. Rejoinder thereto, if any, be filed within 2 weeks thereafter.
13. Till the next date of hearing, there shall be a stay of the disciplinary



proceedings initiated against the petitioner.

14. List on 14<sup>th</sup> January, 2022.

**AMIT BANSAL, J**

**OCTOBER 26, 2021**

*at*