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

\+ W.P.(C) 6455/2023, CM APPL. 25371/2023, CM APPL. 25373/2023 & CM APPL. 38845/2023

Date of Decision: **09.04.2026**

IN THE MATTER OF:

NAVEEN AGGARWAL .....Petitioner

Through: Ms. Anannya Ghosh, Ms. Doel Bose, Ms. Kashish Chhabra and Mr. Srijesh Kumar Singh, Advs.

versus

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA .....Respondent

Through: Mr. Robin Ratnakar David, Adv.
Mr. Manish Kumar, SPC for UOI.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

CM APPL. 25372/2023

1. Exemptions allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 6455/2023, CM APPL. 25371/2023, CM APPL. 25373/2023 & CM APPL. 38845/2023

1. The instant petition has been filed seeking following reliefs:

"a) Issue a Writ of Certiorari quashing the Impugned Order dated 26.04.2023 issued by the Respondent and set aside all consequential proceedings/actions against the Petitioner;
b) Declare that no proceedings under the Chartered Accountants Act, 1949 can be initiated by the Respondent against the Petitioner basis SFIO's Complaint dated 09.06.2022, in view of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007;
c) Restrain the Respondent from initiating and/or continuing with any proceedings under the Chartered Accountants Act, 1949 against the Petitioner basis SFIO's Complaint dated 09.06.2022."

2. The petitioner claims to be a Chartered Accountant and a senior partner of SS Kothari Mehta & Company (Audit Firm). The respondent is a statutory authority under the Chartered Accountants Act 1949 (**hereinafter "1949 Act"**), seeking to initiate disciplinary proceedings against the petitioner based on complaint dated 09.06.2022 filed by the Serious Fraud Investigation Office (**hereinafter "SFIO"**) alleging 'professional misconduct' against the petitioner under Sections 21, 21A, 21B and 22 read with Schedule II, Clause 5 to 8 of the 1949 Act.

3. Various submissions have been made on behalf of by the petitioner. The principal submission raised is that the proceedings herein are time barred. It is submitted that the alleged misconduct pertains to FY(s) 2010-11 and 2011-12. It is further submitted that the petitioner was not capable of leading necessary evidence to adequately rebut the allegations of said misconduct due to the lapse of time. He seeks to invoke Rule 12 of the 2007 Rules i.e. the Charted Accountants (Procedure of Investigations of Professional And Other Misconduct And Conduct of Cases) Rules, 2007.

4. The petitioner's grievance was considered by the Board and subsequently, communication dated 26.04.2023 was sent to him informing him that the matter will be investigated by the Director (Discipline).

According to the Board, closure of the complaint was unwarranted. The petitioner submits that the decision passed by the Board, *vide* order dated 26.04.2023 is *de hors* the rule as contained in Rule 12 which has been interpreted by this Court in the case of ***Wholesale Trading Service P LTD vs. The Institute of Chartered Accountants of India and ORS***[1] and affirmed by the Division Bench[2]. Learned counsel for the petitioner also placed reliance on another decision in the case of ***Ashish Agarwal vs. Institute of Chartered Accountants of India and Anr***[3]**.**

5. Learned counsel for the petitioner also seeks to draw the attention of the Court to various representations. It is submitted that the complete record which is available with the respondent has not been supplied to the petitioner.

6. The submissions made by the petitioner are strongly opposed by the Mr. Robin Ratnakar David, learned counsel appearing for the Institute of Chartered Accountants of India. He submits that adequate consideration has been bestowed upon the petitioner's request, and it is not a case which would require closure at the stage of rule 12 and that non supply of the documents concerned ought not to result in closure of the complaint. The documents can be directed to be supplied to the petitioner.

7. I have considered the submissions made by the learned counsel for the parties and have also perused the record.

8. Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 is

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1 AIRONLINE 2021 DEL 630
2 LPA No. 586/2019 dated 11.09.2019
3 WP(C) 12454/2021 dated 01.09.2022.

extracted as under:

> "*12. Time limit on entertaining complaint or information Where the Director is satisfied that there would be difficulty in securing proper evidence of the alleged misconduct, or that the member or firm against whom the information has been received or the complaint has been filed, would find it difficult to lead evidence to defend himself or itself, as the case may be, on account of the time lag, or that changes have taken place rendering the inquiry procedurally inconvenient or difficult, he may refuse to entertain a complaint or information in respect of any misconduct made more than seven years after the same was alleged to have been committed and submit the same to the Board of Discipline for taking decision on it under sub-section (4) of section 21 A of the Act*."

9. It would, thus, appear that the director has to satisfy whether it would be difficult for the incumbent Chartered Accountant to secure proper evidence of the alleged misconduct to lead evidence to defend himself, that would render the inquiry procedurally inconvenient or difficult. He may refuse to entertain a complaint in respect of any misconduct made more than seven years after the same was alleged to have been committed and submit the same before the Board of Discipline for taking a decision on it under sub-section 4 of section 21A of the Act.

10. If the findings rendered by the Board are appreciated, on the anvil of the Rule 12, it would appear that the investigation in the context of cases M/s SRS Limited and M/s SRS Real Estate Limited was initiated by the SFIO on account of Ministry of Corporate Affairs ('MCA') order dated 01.08.2018. The petitioner's statement was also recorded before the SFIO under Section 217(4)(a/b) of the Companies Act 2013. The petitioner seems to have provided a copy of his working papers for the year 2010-11 and 2011-12 of M/s SRS Limited to the extent available and the working papers of M/s SRS Real Estate Limited to the extent specifically to the SFIO.

11. The SFIO had also furnished the investigation report dated

05.07.2021, which is one of the evidence adduced in support of the allegations made in the complaint. It is for the said reason, the Court opined that the request of the petitioner cannot be acceded in the context of the Rule 12 of the Chartered Accountants Act, 2007.

12. It is found that the material is already available with the respondent. The petitioner has been attributed certain misconduct and according to *prima facie* opinion, the same is established by the evidence collected from the SFIO. Even the petitioner's own statement is available with the respondent. Therefore, the petitioner will have to justify his conduct during the course of the disciplinary enquiry. Rule 12 is a discretionary provision which will have to be invoked by the concerned director at his satisfaction.

13. In the instant case, there seems to be proper application of the mind and sufficient reasoning assigned therein, as to why the complaint could not be closed at the stage of Rule 12.

14. The decision relied upon by the petitioner in the case of ***Wholesale Trading Service P LTD*** relates to a position wherein the director accepted the invocation of rule 12 and had decided to close the complaint. It is the said decision which was declined to be interfered by the Writ Court under Article 226 of the Constitution of India. The same has been affirmed by the Division Bench[4]. In the instant case, the facts and situation are otherwise.

15. Even in another decision, in the case of ***Ashish Agarwal***, the Court in *paras* 13 and 14 held that the concerned authority failed to apply its mind to the facts and situations. Accordingly, it was held that the decision to straight away reject invocation of rule 12 is not just in law. For the sake of clarity paragraph no. 14 of the said order is extracted as under:

"However, that still leaves the Court to consider the validity of the impugned order passed by the respondents in terms of which the objection taken by the petitioner based on Rule 12 has been summarily rejected. The Court is of the considered opinion that the respondent was clearly unjustified in rejecting the objection that was raised outrightly as it has in terms of the impugned order. The Court notes that before proceeding to reject that objection, it was incumbent upon the respondent to have duly considered whether the petitioner was in fact severely handicapped from submitting a response to the allegations levelled in the complaint as also whether there was material and evidence available on the basis of which the enquiry could be proceeded with. It was, in the considered opinion of this Court, incumbent upon the respondent to have recorded cogent reasons in support of its conclusion that the objection taken with reference to Rule 12 was unfounded or unjustified. This the respondent has clearly failed to do since it has straight away proceeded to reject the objection taken without any discussion or recordal of reasons. For all the aforesaid reasons, the matter would merit being remanded to the respondent for consideration of the issue afresh. The Court also takes on board the statement of learned counsel for the petitioner who had stated that the objections taken by the petitioner may be treated as the written statement under the 2007 Rules and the respondent be directed to decide the issue in accordance with law."

16. In the instant case, the Court finds that there is proper justification recorded by the concerned authority. Hence there is no justification to interdict the disciplinary proceedings.

17. So far as the request of the petitioner for the supply of the complete record is concerned, the same seems to be reasonable.

18. Accordingly, the respondent is directed to provide the entire material which forms the basis for the allegations against the petitioner, including the one which is referred to in the impugned communication dated 26.04.2023.

19. Let the same be supplied to the petitioner within 30 days from the date of receipt of the copy of this order.

20. The petitioner is granted an additional opportunity to file a revised

[4] LPA No. 586/2019

reply, if he so desires. Let adequate time be granted to the petitioner to do the needful.

21. So far as the alleged wrongful reference being made to the petitioner's statement and its correct import is concerned, the same would be subject matter of the further inquiry which is to be conducted.

22. The petitioner shall have all rights and liberty to justify and explain the context in which the statement was made. Liberty is also granted to the petitioner to re-agitate the issue of wrongful rejection under rule 12 at the final stage of the inquiry.

23. With these observation, the instant petition along with pending application stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

APRIL 9, 2026/SH