

BOARD OF DISCIPLINE (BENCH-II)

(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**

**Shri Pramod Kumar Gupta, Chairman & Managing Director, M/s. United Drilling
Tools Ltd., NOIDA**

-Vs-

**CA. Dhruv Kumar Agrawal (M.No.087665), NOIDA
[PR/347/14/DD/17/2015/BOD/480/2018]**

CORAM:

**CA. Atul Kumar Gupta, Presiding Officer
Shri Arun Kumar (Government Nominee)
CA. Prasanna Kumar D, Member**

In the matter of:

**Shri Pramod Kumar Gupta
Chairman & Managing Director
M/s. United Drilling Tools Ltd.,
A-22, Phase II,
Distt. Gautam Budh Nagar
NOIDA – 201 305**

.....Complainant

Versus

**CA. Dhruv Kumar Agrawal
A-69 B,
Sector 40,
Gold Link,
Noida – 201 301**

.....Respondent

**DATE OF FINAL HEARING: 18.07.2019
PLACE OF HEARING: NEW DELHI**

PARTY PRESENT

Respondent: CA. Dhruv Kumar Aggarwal

Findings:

1. The Board noted that the charge against the Respondent is that he denied of signing the balance sheet of the Company for the F.Y. 2013-14 and is demanding graft of Rs. 1.00 crores in lieu of certifying the same from M/s Managing Drilling Tools Ltd., Noida. The Board noted that although the Director (Discipline) prima-facie held him not guilty, but while considering the prima-facie opinion the then Board opined that looking into the gravity of allegation of graft and there are certain indications in audio contents of CD that the Company in the conversation might be the Complainant Company, the Board did not agree with the prima-facie opinion of the Director (Discipline) that the Respondent is not guilty of "Other Misconduct" falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of said Act and decided to proceed under Chapter IV of Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

2. The Board noted that both the parties were not present at the time of final hearing. The Board also noted that in the earlier hearing fixed on 29th April, 2019 none of the parties were present before it. Looking into repetitive absence of the Complainant, the Board in this regard took reference to Rule 14 of the aforesaid Rules relating to "Procedure to be followed by the Board of Discipline" whereby as per sub rule (7) and (8) it is mentioned as under:

"(7) On the date of hearing, if the respondent, in spite of the service of notice, under sub rule (6) does not appear either in person or through his authorised representative the Board of Discipline may proceed ex-parte and pass such orders as may think fit or direct fresh notice to be served.

*(8) The Board of Discipline may on such terms as they think fit and at any stage of proceedings adjourn the hearing:
Provided that such adjournment shall not be given more than one stage at any stage of the proceedings."*

The Board noted that similar rules are also applicable for the Complainant also hence the Board decided to take up the matter ex-parte the Complainant and decided to proceed on the merits of the case.

3. The Board noted that the Complainant had provided CD to substantiate his allegation. The Board observed that the then Board while considering the prima-facie opinion of the Director Discipline referred the matter for further investigation because it was of the opinion that there are certain indications in audio contents of CD, that the Company in the conversation might be the Complainant Company. But the Complainant chose to remain absent despite being given ample opportunities.
4. The Board on perusal of the CD observed that in the said audio CD there is no mention as to for which Company the gratification is being claimed. Further, the certificate of truthfulness of the CD i.e. Forensic report etc. and certified written script were not provided by the Complainant despite the matter being specifically raised by the Respondent in his written statement.
5. Further the Board also considered the submission of the Respondent given in written statement that "*Noida police is unable to identify the voice and persons involved despite 10 months Police Investigations on police complaints in June 2014 by the Company resulting Non cognizable offence Report No. 160-14 lodged by the Company in Thana, Phase-2, Noida, Near Factory of the Company*". The Board noted that the said submission remained unanswered by the Complainant.
6. In view of the same, the Board opined that due to lack of positive documents from the Complainant the contents of the audio CD cannot be relied upon and the charge of demanding graft by the Respondent cannot be established.

CONCLUSION:

7. Accordingly, in the absence of any evidence available against the Respondent, the Board concluded that the Respondent is **NOT GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of said Act. Accordingly, 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, the Board passes Order for closure of the case.

Sd/-
(ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(ARUN KUMAR)
GOVERNMENT NOMINEE

Sd/-
(PRASANNA KUMAR D)
MEMBER

DATE : 18.07.2019

PLACE : NEW DELHI

Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
Institute of Chartered Accountants of India
100, Noida, India