

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

CA. Sushil Kumar Maskara, Hyderabad

-Vs-

CA. Pawan Kumar Pachisia (M.No.060747), Kolkata

[PR-145/2018/DD-175/18/BOD/509/2019]

CORAM:

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

In the matter of:

CA. Sushik Kumar Maskara

D 1504, RAnky Tower,

Gachibowli,

Hyderabad – 500 032

.....Complainant

Versus

CA. Pawan Kumar Pachisia (M.No. 053836)

P-236 C I T Road,

Scheme-IV(M)

KOLKATA – 700 010

.....Respondent

**DATE OF FINAL HEARING : 25.09.2019
PLACE OF HEARING : KOLKATA**

PARTIES PRESENT:

Respondent : CA. Pawan Kumar Pachisia

VP

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Findings:

1. The Board noted that in present case the allegation levelled is that the Respondent had borrowed amount of Rs. 35,00,000/- from the Complainant but did not repay the amount. The Respondent had issued the cheques for repayment of the same but the same had been dishonoured. The Board noted that although the Director (Discipline) in prime-facie opinion held the Respondent not guilty but while considering the prima facie opinion of the Director (Discipline), it viewed that the act of the Respondent by taking huge amount(s) of loan and not repaying the same creates bad image of the profession in the society. In view of the same, the Board decided to further investigate the matter and hence did not concur with opinion and accordingly held the Respondent Guilty of "Other Misconduct" falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.
2. The Board also noted that the Complainant vide his e-mail dated 13th September, 2019 informed that he will not attend the hearing as he has already submitted all the documentary evidences. Further, the Complainant in the said email submitted that he is having full faith in ICAI disciplinary proceedings and hence authorized the Board to pronounce verdict in his absence. Accordingly, the Board decided to proceed in the matter ex-parte the Complainant.
3. The Board noted that the Respondent submitted as under:
 - a. That he had taken loan from the Complainant in 2009 to invest in capital market.
 - b. He was regularly repaying the amount till March, 2014, but due to loss in capital market he could not repay the whole amount.
 - c. Whenever he arranged amount to repay he repays. Even after dishonor of cheques he had repaid upto Rs. 50.00 Lacs.
 - d. There was no bad intention as non-payment of loan was beyond his control. ✓
 - e. He will repay the amount at the earliest.

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4. The Board noted that there was friendly exchange of money as the Complainant and the Respondent were friends. As regards issue relating to dishonour of cheques, the Board noted that the Respondent had issued cheque(s) to the Complainant with a request to present the cheque only when he gave date of having sufficient funds in bank account. The Board also noted that according to the Respondent, the Complainant deposited the said cheques(s) without waiting for the date.
5. The Board noted that there was friendly exchange of money to earn incentive/ dividend from capital market. Default in repayment of loan due to malafide intention could have resulted in bringing disrepute to the profession. In absence of any such kind of intentional non-payment of loan with a malafide intention, the Board did not find any misconduct on the part of the Respondent and therefore, he is held Not Guilty.

CONCLUSION:

6. Thus, 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 the 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

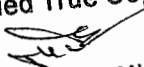
Sd/-
(ARUN KUMAR)
GOVERNMENT NOMINEE

Sd/-
(PRASANNA KUMAR D)
MEMBER

DATE : 25.09.2019

PLACE : KOLKATA

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Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
11 Bhawan, I.P. Marg, New Delhi-110 002

