

**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. Jatin D. Jhaveri of M/s. J. D. Jhaveri & Associates, Chartered Accountants, Mumbai**

**-Vs-**

**CA. Suresh Mehra (M. No. 039730) of M/s. S. C. Mehra & Associates, Chartered Accountants, Mumbai**

**[PR-60/15-DD/70/2015/BOD/380/2017]**

**CORAM:**

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

**In the matter of:**

**CA. Jatin D. Jhaveri  
M/s. J. D. Jhaveri & Associates  
A-105, Silver Arch, Ceaser Road  
Amboli, Andheri (West)  
MUMBAI – 400 058**

**.....Complainant**

**Versus**

**CA. Suresh Mehra (M.No. 039730)  
M/s. S. C. Mehra & Associates  
Chartered Accountants,  
Office No. 42, First Floor  
Singh Industrial Estate No. 3  
Near Movie Star Cinema, Ram Mandir Road,  
Off S V Road, Goregaon-West  
MUMBAI – 400 104**

**.....Respondent**

**DATE OF HEARING: 10.04.2019**

**PLACE OF HEARING: MUMBAI**

**8**

## **PARTIES PRESENT:**

**Complainant** : CA. Jatin D. Jhaveri  
**Respondent** : CA. Suresh Mehra  
**Counsel for the Respondent** : CA. Bhupendra Shah

## **Findings:**

1. The Board noted that the charge on which the Respondent has been held guilty by the Director (Discipline) of Professional Misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 is that he accepted Tax and Statutory Audit of M/s Oriensoft technologies Private Limited (Now Known as M/s Xcellhost Cloud Services Private Limited) for financial Year 2013-14 without communicating with the previous auditor i.e. the Complainant.
2. The Board heard the submissions made by the both the parties and duly considered the submissions/documents available on record.
3. The Board noted that the Respondent submitted that he had sent separate three letters all dated 8th March, 2014 in single envelope by speed post seeking NOC for MVAT audit, Tax audit and Statutory audit. The Respondent further stated that the Complainant has not communicated w.r.t Statutory and Tax Audit for the year ended 31.03.2014.
4. The Board also noted that the plea of Complainant that he has received only one letter for the MVAT Audit and has raised objections on the same through letter dated 15/03/2014 strengthens the doubt cast on Respondent that he has sent only one letter. Had the Complainant received the letters for Tax and Statutory Audit, he would have objected for the same in the same manner as he had done against the letter regarding VAT Audit.





5. Further the Board noted that there was no reason to send three separate letters when all relates to NOC and were being sent to same person (previous auditor). The Board noted that in present case the fee of previous auditor was also pending.
6. The Board viewed that as a matter of prudence the provision of Clause (8) was inserted with one specific objective that not only the accounts of the Company reflects true and fair and there is no fraud whose unveiling had caused change in auditorship but sometimes the root cause of an auditor being changed is existence of a dispute as regards the fees. This would not constitute valid professional reasons on account of which an audit should not be accepted by the member to whom it is offered. However, in the case of an undisputed audit fees for carrying out the statutory audit under the Companies Act or various other statutes having not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled.
7. Thus, the Board looking into fact decided to hold the Respondent Guilty for non-communicating with previous auditor before acceptance of audit more so when the fee of previous auditor was pending.

**CONCLUSION:**

8. Thus, the Board concluded that the Respondent is held **GUILTY** of Professional Misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

-Sd/-

(ATUL KUMAR GUPTA)

PRESIDING OFFICER

DATE: 10.04.2019

PLACE: Mumbai

-Sd/-

(ARUN KUMAR)

GOVERNMENT NOMINEE

Certified Copy

SHASHI MAHAJAN

Deputy Secretary  
Disciplinary Directorate

The Institute of Chartered Accountants of India  
ICAI Bhawan, I.P. Marg, New Delhi-110 002

10/10/10

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**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**  
(Set up by an Act of Parliament)

**ORDER UNDER SECTION 21 A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

**CA. Jatin D. Jhaveri of M/s. J. D. Jahaveri & Associates, Chartered Accountants, Mumbai .....Complainant**

**-VS-**

**CA. Suresh Mehra (M. No. 039730) of M/s. S. C. Mehra & Associates, Chartered Accountants, Mumbai .....Respondent**

**[PR-60/15-DD/70/2015/BOD/380/2017]**

**CORAM:**

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

1. That vide findings dated 10<sup>th</sup> April, 2019 the Board of Discipline was of the opinion that CA. Suresh Mehra is GUILTY of Professional Misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
2. That an action under Section 21A(3) of the Chartered Accountants Act, 1949 was contemplated against CA. Suresh Mehra and communication dated 2<sup>nd</sup> August, 2019 was addressed to him thereby granting him an opportunity to make written representation. Further, vide letter dated 27<sup>th</sup> September, 2019, CA. Suresh Mehra was granted an opportunity to represent himself in person & make his representation before Board on 20<sup>th</sup> October, 2019.
3. That CA. Suresh Mehra appeared before the Board on 20<sup>th</sup> October, 2019 wherein he submitted that the entire fee of the old auditor was paid and no amount was pending. He further submitted that since it is his first mistake, a lenient view to be taken by the Board in the matter.
4. As per the findings of the Board dated 10<sup>th</sup> April, 2019, CA. Suresh Mehra was found guilty under the charges that he accepted Tax and Statutory Audit of M/s Oriensoft technologies Private Limited (Now Known as M/s Xcellhost Cloud Services Private Limited) for financial Year 2013-14 without communicating with the previous auditor i.e. CA. Jatin D. Jhaveri.

*(Handwritten initials)*



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5. The Board noted the plea of CA. Suresh Mehra that he had sent separate three letters all dated 8th March, 2014 in single envelope by speed post seeking NOC for MVAT audit, Tax audit and Statutory audit and was of the view that there was no reason to send three separate letters when all relates to NOC and were being sent to same person (previous auditor).
6. The Board further noted that it cannot be ascertained from the postal receipt as to whether all three letters were sent or only one letter for MVAT Audit was sent. However CA. Suresh Mehra has produced only one postal receipt and it cannot be a case where upon receipt of the letter, two enclosures go missing.
7. The Board also noted that it is proven that CA. Suresh Mehra has failed to communicate with the previous Auditor for Tax Audit and Statutory Audit of the said Company.
8. Upon consideration of the facts of the case, the consequent misconduct of CA. Suresh Mehra, and keeping in view of his submissions, the Board was of the view that the ends of justice shall be met if reasonable punishment is awarded to him.
9. Accordingly, the Board ordered to reprimand CA. Suresh Mehra.

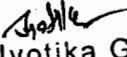
Sd/-  
(ATUL KUMAR GUPTA)  
PRESIDING OFFICER

Sd/-  
(ARUN KUMAR)  
GOVERNMENT NOMINEE

Sd/-  
(PRASANNA KUMAR D)  
MEMBER

DATE : 20<sup>th</sup> October, 2019  
PLACE : Mumbai

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Certified Copy  
  
Jyotika Grover  
Assistant Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
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