

**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. Hitendra Kumar Ashvin Bhai Thacker, Kutch**

**-Vs-**

**CA. Prahalad Bholiram Jhanwar (M.No. 120920), Kutch**

**[PR/238/15/DD/257/2015/BOD/404/2017]**

**CORAM:**

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

**In the matter of:**

**CA. Hitendra Kumar Ashvin Bhai Thacker (M.No.119239)  
Mandhav Palace, Plot No-55,  
Sector-8, Office No 115-116,  
1st Floor Gandhidham,  
Kutch -370201**

**.....Complainant**

**Versus**

**CA. Prahalad Bholiram Jhanwar..... (M. No. 120920)  
F-3 Manali Enclave,  
Plot No 25-26, Ward 7C  
Gurukul, Gandhidham,  
Kutch -370201**

**.....Respondent**

**DATE OF HEARING: 10.04.2019**

**PLACE OF HEARING: MUMBAI**

**PARTIES PRESENT:**

**Complainant : Nil  
Respondent : Nil**



## 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 conducted tax audit without communicating with the Complainant who was the previous auditor of Mr. Rajkumar Rambilash Sharma (Prop. Mohit Road Carriers) i.e. the entity.
2. The Board noted that both the parties did not appear before it despite due service of notice. The Board also noted that hearing in this case was earlier held on 20<sup>th</sup> December, 2018 and wherein too the Respondent was not present.
3. Further, the Board noted that the Respondent accepted in his written statement dated 1<sup>st</sup> January, 2016 that he finalized Audit Report of the entity without obtaining NOC from the Complainant.
4. The Board also noted that the Respondent in his further written statement dated 24<sup>th</sup> April, 2018, submitted that he is having no proof communicating with previous auditor, but to the best of his knowledge, he have sent a communication to the previous auditor seeking to know if he has any objection to his acceptance the audit. The further submitted that subsequent communication was sent to the Complainant on 28.12.2015
5. The Board further noted that the audit report was signed on 29.09.2015 and there is no evidence on record to establish that the communication was made by the Respondent with the Complainant prior to date of acceptance of audit.
6. The Board further observed that in the case of R.M. Singhai & Associates vs. R.V. Agarwal - Page 155 of Vol.VI(2) of Disciplinary Cases - decided on 15th, 16th and 17th December, 1988, it is held that the requirements of Clause (8) of Part I of the first Schedule can be considered to have been complied with only:
  - (i) if there is evidence that a communication to the previous auditor had been by R.P.A.D.
  - (ii) if there was positive evidence about delivery of the communication to the previous auditor.



In the absence of both, the member should be found to have contravened this Clause.

7. Thus, the Board looking into admission of the Respondent in written statement dated 1<sup>st</sup> January, 2016 and also taking fact on record that the Respondent is not having any documentary evidence to defend his case decided to hold him Guilty for non-communicating with previous auditor before acceptance of audit.

**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**

**-Sd/-**

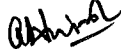
**(ARUN KUMAR)  
GOVERNMENT NOMINEE**

**DATE: 10.04.2019**

**PLACE: Mumbai**



Certified True Copy



R. S. Srivastava  
Secretary

Disc. Secy

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

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**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. Hitendra Kumar Ashvin Bhai Thacker, Kutch .....Complainant**  
**-Vs-**  
**CA. Prahalad Bholiram Jhanwar (M.No. 120920), Kutch .....Respondent**

**[PR/238/15/DD/257/2015/BOD/404/2017]**

**CORAM:**

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

1. That vide findings dated **10<sup>th</sup> April, 2019** the Board of Discipline held CA. Prahalad Bholiram Jhanwar **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. Prahalad Bholiram Jhanwar and communication dated 5<sup>th</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. Prahalad Bholiram Jhanwar was granted an opportunity to represent himself in person before Board on 20<sup>th</sup> October, 2019.
3. That CA. Prahalad Bholiram Jhanwar did not appear before the Board on 20<sup>th</sup> October, 2019. In his absence, the Board has carefully gone through the facts of the case and perused the available documents on record.
4. As per the findings of the Board dated 10<sup>th</sup> April, 2019 CA. Prahalad Bholiram Jhanwar was found guilty on the grounds that he conducted tax audit without communicating with the Complainant who was the previous auditor of Mr. Rajkumar Rambilash Sharma (Prop. Mohit Road Carriers) i.e. the entity.
5. The Board noted that CA. Prahalad Bholiram Jhanwar had accepted in his written statement dated 1<sup>st</sup> January, 2016 that he finalized Audit Report of the entity without obtaining NOC from the Complainant.
6. The Board further noted that the audit report of the entity was signed on 29<sup>th</sup> September, 2015 and there is no evidence on record to establish that the communication was made by CA. Prahalad Bholiram Jhanwar with CA. Hitendra Kumar Ashvin Bhai Thacker prior to date of acceptance of audit.



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7. Upon consideration of the facts of the case and the consequent misconduct of CA. Prahalad Bholiram Jhanwar, the Board was of the view that the ends of justice shall be met if reasonable punishment is awarded to him.

8. Accordingly, the Board ordered that CA. Prahalad Bholiram Jhanwar be reprimanded.

**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**

Certified Copy

Manoj Saxena  
Deputy Secretary  
Disciplinary Directorate  
The Institute of Chartered Accountants of India  
ICAI Bhawan, I.P. Marg, New Delhi-110 002