



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

PPR/4/N/2013-DD/4/N/INF/2013/BOD/279/2017

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.

In the matter of:-

CA. Avdhesh Mittal (M.No.083360) in Re:
[PPR/4/N/2013-DD/4/N/INF/2013/BOD/279/2017]

MEMBERS PRESENT:

CA. Prasanna Kumar D, Presiding Officer
Mrs. Rani Nair, (IRS, Retd.), Government Nominee
CA. Durgesh Kumar Kabra, Member

Date of final hearing: 9th March 2020

1. The Board of Discipline vide Report dated 30th January, 2020 was of the opinion that **CA. Avdhesh Mittal** is 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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Avdhesh Mittal** and communication dated 26th February, 2020 was addressed to them thereby granting them an opportunity of being heard in person and/or to make written representation before the Board on 9th March, 2020.
3. **CA. Avdhesh Mittal** appeared personally before the Board on 9th March 2020 and was put on oath since it was the first time that he appeared before it and made his oral as well as written representation before the Board.
4. **CA. Avdhesh Mittal** in his written representation dated 6th March, 2020, inter-alia, stated as hereunder:-
 - (a) He has never used and filled any Form with wrong spelling as alleged and it is the mistake committed by other persons.
First time, the spelling of his name was written wrong by the Passport office issuing the passport in Frankfurt and it was a tedious task to get the name corrected as thereafter the passport was reissued in Dubai on 13.09.1998. The Respondent also attached another US Visa issued on 13.06.2000 with the correct spelling, on the same passport which justifies that the Respondent must have filled the Form correctly.



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This issue was raised by brain behind the complaint i.e. Sh. Rajinder Chhabra in the Court. While arguing the case in the Court even the Judge observed that the Court document bears Respondent's name wrongly as "Avdesh Mittal", the bail Order attached herewith shall confirm the same. The Respondent also attached copy of the Order of CMM (South) Saket Courts dated 19.02.2014 where on his application, the Court corrected the name in its record even though the name appeared correct in FIR dated 15.10.08

- (b) Involvement in cheat in Criminal Trespass, Grabbing of property etc.: The award given by Learned Justice Dhingra, the arbitrator in the case and bail Order read together justifies the facts that Respondent has been dragged in the false cases with malicious intention of Rajinder Chhabra as clearly mentioned in the Bail Order dated 07.05.11 on page number 7 and 8 which are reproduced here:

"Present FIR is registered u/s 156(3) Cr. PC after an Order in this regard passed by the Trial Court in the year 2008. Since then admittedly, the accused has joined the investigation. It is only in the year 2011 when the police has chosen to arrest him and now he is in custody for the last 40 days and the matter is already pending before the Hon'ble High Court/Arbitrator. Prima facie the main dispute is of civil nature. Admittedly it is the accused herein who firstly issued legal notices as well as had filed the case before the Hon'ble High Court and knocked the doors of the Court firstly, to show his bona-fide.

"The case is based on documentary evidence, which is pending adjudication in the Hon'ble High Court. There is no likelihood that the accused shall temper with the prosecution evidence or will abscond when it is he, who had firstly approached the Hon'ble High Court in respect of dispute. "

- (c) Complaint by N.C Bansal regarding UPFC Loan: CA.N.C. Bansal has already affirmed in his reply to the Institute as under:

"Of late through RTI enquiry I came to know that UPFC has even settled its total outstanding of the loans with Mr. Avdhesh Mittal & Reena Mittal in July 2005, by receiving Rs. 11 lac more against its arbitrary dues worked out wrongly & has exonerated both of them from liability of the loans under their OTS (one time settlement) scheme"

So it is quite clear that if there would have been fault either of the Respondent or his wife, UPFC would not have cleared them way back in 2006.



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- (d) Observation by the Officer of ROC: The first para of the written observation of the ROC Officer says "it is found that only three companies pertain to ROC Delhi" however contrary to same all the companies mentioned in her observations have been duly registered with ROC- Delhi only.
- (e) The Respondent also attached the copy of the bail Order in which the Id. Judge observed as under while granting him bail:

"So far as the report of concerned J.E. is concerned, the J.E. had admitted that the report was given by him under his signatures after inspection."

Also the bail Order speaks loud and clear that there was no need for arrest and the Respondent was clearly following the course of law diligently. While releasing the Respondent on bail the learned Judge further observed that the inferior construction is an issue to be decided by the learned arbitrator and while passing the Order, the arbitrator Justice S.N. Dhingra has already demolished the report of ATES.

- (f) Regarding the Observation of ROC that companies are shell companies:

None of the companies are shell companies as alleged by ROC Officer in three examples quoted:

a) Showman Construction & Impex Ltd: As per attached Balance Sheet the Project cost is worth Rs.1.80 Crores while awarding the Order learned justice Dhingra have valued the project worth 11 Crores which itself explains the value of Shares.

Certified to be true copy

b) Better homes Buildtech Pvt Ltd: The Company has Tangible Fixed assets worth Rs. 1.62 Crores as on 31.03.19 then how the company can be a shell company.

c) Avdesh Construction & Impex Ltd: The ROC Officer herself mentioned that the Net worth of the company is Rs. 29.29 Crores, then how come it can be a shell company?

In fact all the mentioned companies have done good business in past.

- (g) In the matter of Reena Mittal & ANR Vs Honey Gupta: The Case is with Delhi High Court. The matter relates to Sale/Purchase and possession of land/Building. The case is under proceedings at Delhi High Court. However, the Honourable Courts have moved forward and in its Order dated 28.1.19

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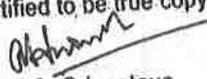
and further rectified on 5.02.2019 clearly taken stand in Respondent's favour as the Court was convinced with the malaise intention of the second party.

5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Avdhesh Mittal**. Considering the same, the Board was of the view that, as per the findings of the Board as contained in its report clearly stating that the alleged involvement of the Respondent in various acts of forgery of bills/ invoices/running of shell companies/ layering of funds through illegal channels etc. cannot be ruled out, it has already been conclusively proved that the Respondent is Guilty of Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule of the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

6. Upon consideration of the facts of the case, the consequent misconduct of **CA. Avdhesh Mittal** and keeping in view his oral and written representation before it, the Board decided to remove the name of **CA. Avdhesh Mittal (M.No.083360)** from the Register of Members for a period of Forty Five (45) days and further imposed a fine of Rs. 50,000/- (Rupees Fifty thousand only) upon him payable within a period of 60 days from the date of receipt of the Order.

Sd/-

CA. PRASANNA KUMAR D.
(PRESIDING OFFICER)

Certified to be true copy

R.S. Srivastava
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

BOARD OF DISCIPLINE(BENCH I)

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

File No. : PPR/4/N/2013-DD/4/N/INF/2013/BOD/279/2017

CORAM:

CA. Sushil kumar Goyal, Presiding Officer
Smt. Rani Nair (IRS, Retd.), Government Nominee
CA. Durgesh Kumar Kabra, Member

In the matter of:

CA. Avdhesh Mittal (M.No. 083360)
E-582, Greater Kailash,
New Delhi-110048

...Respondent

DATE OF FINAL HEARING : 6th January, 2020

PLACE OF HEARING : New Delhi

PARTIES PRESENT:

Counsel for the Respondent : CA. Ramesh Chandra

FINDINGS:

1. The Board noted the charges against the Respondent as under:-
 - 1.1 The Respondent is involved in numerous frauds with Registrar of Companies (ROC) including Balance Sheet audit frauds, Bogus Accounts entry frauds and involved in activities to cheat innocent people and senior citizens. The Respondent is known by various names Mr. Avdhesh Mittal alias Avdhesh Mittal and is a notorious criminal and is involved in various criminal activities. Further, various complaints/ cases are pending against the Respondent before different Courts and Police Stations in Delhi and Other states.
 - 1.2 The Respondent is involved in Cheating, Criminal Trespass, Grabbing of Property, Forgery, Fraud, Revenue Losses to Govt., manipulations, misrepresentations, Concealment of facts and Inferior Construction of high rise buildings with substandard quality of building material etc.

- 1.3 The FIR No. 262/2001, PS Sector-58, Noida, U.P. dated 16/09/2001 was registered u/s 406 IPC against the Respondent. Further, FIR No. 180/2008, PS EOW, Crime Branch, Delhi dated 15/10/2008 was also registered u/s 418, 420, 341, 120B, 34 IPC on the Directions of Ld. ACMM, Patiala House District Courts, Delhi against the Respondent and various other companies.
2. The Board at the time of hearing held on 6th January, 2020, noted that the Counsel for the Respondent was present before it wherein written submissions of the Respondent dated 6th January 2020 were filed. On this, the Counsel's attention was drawn to the notice dated 29th November 2019 issued in respect of hearing before the Board of Discipline wherein he was asked to make submissions till 6th December 2019. He was asked to file a condonation application in this respect. Thereafter, the Counsel for the Respondent made his detailed submissions before the Board. The Board also noted that at the time of last hearing held in the matter on 16th May 2019, it had directed the Directorate to write to:
- (a) the informant to seek details/evidences in support of the allegation regarding frauds with ROC, Balance Sheet audit frauds, bogus account entry frauds and thereafter, to further seek details from the concerned ROC regarding the role of the Respondent in the matter.
 - (b) CA. N.C.Bansal asking him to authenticate the copy of the letter dated 12th October 2001 addressed to the Regional Manager, U.P. Finance Corporation, Noida, signed by him and provide his comments thereon.
- 2.1 Since certain information in respect of the alleged matter was received from the ROC, Informant and CA. N.C.Bansal, a copy of which was provided to the Counsel for the Respondent and was asked to make his submissions thereon, if any, within 7 days. With this, the hearing in the case was concluded and the judgement in the case was kept reserved. Thereafter, the Board at its meeting held on 30th January 2020 noted that the submissions of the Respondent had been received and thus, the Board took a decision as regards the misconduct of the Respondent on the basis of the documents and submissions on record.
3. The Board noted that the office of RoC vide its letter dated 26/12/2019 submitted the following information:-
- 3.1 The complaint was filed by Sh. Rajender Chhabra against the Respondent and as per the information sought regarding the list of companies, it is found that three companies pertain to RoC, Delhi i.e. Showman Construction & Impex Ltd., Avdhesh Construction & Impex Ltd. and Better Homes Bultech Pvt. Ltd. The brief of findings as per ROC office regarding the said three companies are as follows:-
- (a) Showman Construction & Impex Ltd. – The Company is not operating for last 8 years and shows revenue only to cover up some expenses. There are no expenses in the Company except audit expenses. There are no

employee related expenses in the company and no fixed assets in the Company except one car. The company was incorporated in 2002 and has issued Rs. 11.80 Lakhs share capital at a share premium of Rs. 630 Lakhs though its financials were never good. The Company had invested Rs.580 Lakhs in equity shares of unlisted private companies. The Company has made investment in property of Rs. 181.71 Lakhs. It appears the company used to issue fake bills/ invoices during 2017-18 and 2018-19.

- (b) Avdesh Construction & Impex Ltd. – The Company is not operating for last 11 years and it is showing revenue only to cover up some expenses. The Revenue from operations for the FY 31/03/2018, 31/03/2017, 31/03/2014 and 31/03/2012 is Rs. 785 Lakhs, Rs. 2.27, Rs. 69 Lakhs and Rs. 76 Lakhs respectively. There are no expenses in the Company except audit expenses (except FY 31/03/2009, 31/03/2010, 31/03/2012). There are no employee related expenses in the company (except FY 31/03/2009, 31/03/2010, 31/03/2012). Also there are no fixed assets in the Company except one car. Except in above four years there is no income in the company for 11 years though the company was incorporated in 2002. The Company has issued Rs.21 Lakhs share capital at a share premium of Rs. 2929 Lakhs though its financials were never good. The Company had invested Rs. 722 Lakhs in equity shares of unlisted private companies (including its group companies). The Company has given loans & advances of Rs. 1337 Lakhs to related parties (i.e. its own group companies).
- (c) Better Homes Bultech Pvt. Ltd. – The Company is not operating for last 9 years and it is showing revenue only to cover up some expenses. The revenue from operations for the FY 31/03/2019, 31/03/2018 and 31/03/2017 is Rs. 1996 Lakhs, Rs. 21,000 and Rs. 4300 respectively. There are no expenses in the Company except audit expenses. There are no employee related expenses in the Company (except in the year 31/03/2012 & 31/03/2011). Also there are no fixed assets in the Company except one building costing Rs. 162.82 Lakhs. The Company has issued Rs. 9 Lakhs share capital at a share premium of Rs. 882 Lakhs though its financials were never good. The Company has borrowed Rs. 294.50 Lakhs from its related parties. The Company has invested Rs.865.66 Lakhs in shares of unlisted companies (including its own group companies).

In view of above facts the companies appear to be shell/ paper companies to provide accommodation entries and the Companies have been used as a conduit to siphon funds/ money laundering.

- 3.2 The Respondent has filed wrong affidavit with MCA for striking off two companies i.e. Aveena Mega Food Park Andhra Pvt. Ltd. and Swami Narayan Milk Products Pvt. Ltd.
- 3.3 The Respondent has been director in twenty companies and most of these companies are not operational and have received huge premiums though these are not doing any business. The DIN number of the Respondent is 160065. The list of companies wherein the Respondent was director as per printout of Director Master Data dated 26/12/2019 as submitted by office of ROC is as follows:-

S.No.	CIN/FCRN	Company Name	Begin Date
1.	U74999DL2016PTC302754	Avyukta Ayurveda Private Limited	09/07/2016
2.	U15100DL2015PTC285876	Aveena Mega Food Park Andhra Private Limited	25/04/2017
3.	U74140DL2014PTC272192	Swami Narayan Milk Products Private Limited	30/09/2014
4.	U74140DL2014PTC271499	Prominent Milk Private Limited	30/12/2015
5.	U74140DL2014PTC271494	Aveena Cold Storage Private Limited	11/09/2014
6.	U01403DL2013PTC261464	Prominent Edible Private Limited	02/12/2013
7.	U01400DL2012PTC242635	Manhar Farms Private Limited	21/09/2012
8.	U01403DL2012PTC242732	Hrishikesh Farms Private Limited	25/09/2012
9.	U55101DL2012PTC235427	Bentolak Hotels Priavte Limited	09/11/2013
10.	U15412DL2009PTC191870	BP Fresh Fruit Private Limited	30/09/2014
11.	U51101DL2009PTC186628	Ramada Impex Private Limited	16/01/2012
12.	U45400DL2008PTC185081	Spark Realcon Private Limited	20/11/2008
13.	U70109DL2008PTC175521	Prominent Realtech Private Limited	19/03/2008
14.	U70109DL2008PTC175530	Sunway Realtech Private Limited	19/03/2008
15.	U74120DL2008PTC173371	Krishna Breeders Private Limited	30/08/2012
16.	U55101DL2007PTC171089	Ramada Hospitality Private Limited	05/12/2007
17.	U45202DL2003PTC121303	Better Homes Buildtech Private Limited	06/08/2008
18.	U74899DL2002PTC115116	Avdhesh Construction And Impex Limited	30/09/2019
19.	U45201DL2002PLC115115	Showman Construction & Impex Limited	24/05/2002
20.	U70109DL1997PTC088994	All Times Builders & Impex Private Limited	24/09/1998

- 3.4 The Respondent was Director in other companies along with his wife, son and daughter and also submitted detailed findings in respect of following companies:-
- Aveena Cold Storage Pvt. Ltd.
 - Manhar Farms Pvt. Ltd.
 - Hrishikesh Farms Pvt. Ltd.
 - Bentolak Hotels Pvt. Ltd.
 - Ramada Impex Pvt. Ltd.
 - Spark Realcon Pvt. Ltd.
 - Prominent Realtech Pvt. Ltd.
 - Sunway Realtech Pvt. Ltd.

The entire groups of companies are having inter-company loans and advances, inter-company share holdings, inter-company investments and share premiums even though the revenues are minimal in the group companies.

4. The Board also noted that the Informant vide his letter dated 3rd January, 2020 submitted the following information:-

- a. In the matter before Ld. Court at Saket Courts (South District, Delhi), investigating agency EOW, Mandir Marg, New Delhi has filed supplementary charge-sheets on 07/05/2018, 28/11/2018 and 25/10/2019 on account of involvement of Respondent, CA Manoj Gupta and others in the act of cheating, forgery and manipulation in accounts etc.
- b. The Respondent was involved in preparation of forged bills, balance sheets, appointment letters etc and also prepared forged minutes of board meetings. It is further alleged that the persons involved in the aforesaid activities are land mafia and grabbing the valuable properties of innocent people and investigation agency also approached forensic lab for opinion on handwriting/ signatures.
- c. Mr. Sanjeev Yadav also filed a police complaint against the Respondent and CA. Manoj Gupta at PS Khyala and a statement was also got recorded by Ld. MM, Saket Courts (South District, Delhi) under Section 164 Cr.P.C.
- d. The informant further submitted various documents to strengthen his case including the supplementary charge-sheets, order of Ld. ACMM (South), New Delhi dated 07/07/2018, FSL Report dated 29/06/2018, application of IO in respective Court, order on anticipatory bail dated 16/06/2012, application dated 21/06/2013 under RTI Act filed before ICAI, list of 76 cases against Respondent before various forums etc.

5. The Board also noted that in respect of the issue of inferior construction of high rise buildings with substandard quality of building material, the Respondent was arrested on 25th March, 2011 and was in custody for 40 days. Vide order dated 7th May, 2011 of Additional Session Judge, South District Court, New Delhi, he was granted bail.

6. The Board also noted that the Respondent in his defence submitted that the Informant has cited various cases against him at various legal forums and in majority of cases, he has filed the complaint to safeguard his interest in various assets owned by the Respondent himself. Further, in few of the cases, he has been involved in the capacity of Director of the Company and there is no adverse judgment against him by any legal forum in any of the cases. The Respondent has further submitted status of three major cases cited against him as follows:-

S No.	Description of Case	Summary of matter	Status
1.	UPFC Vs Jersey Industries Ltd.	It relates to some loan owned by Company from UPFC	The Respondent was involved as director of the Company and have already settled the matter in his individual capacity and got the NOC

			from UPFC. Further, it was concluded in May, 2006 itself.
2.	Showman Construction & Impex Ltd. Vs Rajinder Chhabra	The case was with Arbitration Tribunal and relates to sale/purchase of building	The Respondent was involved as director of the Company. The Sole Arbitrator has concluded the proceedings and announced the award on 04/07/2019 in his favour.
3.	Reena Mittal & Anr. Vs Honey Gupta	The case is with Hon'ble Delhi High Court and the matter relates to sale/purchase and possession of land/building	The case is under proceedings at Hon'ble Delhi High Court.

The Board also noted that the Respondent in response to the communications received from the Office of ROC, Delhi dated 26/12/2019, e-mail received from Mr. Naresh Chandra Bansal dated 22/12/2019 and e-mail received from Mr. Manish Gupta dated 04/01/2020 submitted as under:-

- a. The submissions of RoC are on the basis of complaint received by it from one Rajinder Chabra, who is in legal dispute with Showman Construction & Impex Ltd. wherein the Respondent is Director and the dispute pertains to ownership of property. The Respondent further alleged that the RoC official acted at behest of Rajinder Chabra and for the said act of RoC official, the Respondent has already filed complaint with the RoC on 27th May, 2019. The comments of RoC official with respect to the business activities and statutory compliances are wrong and the Respondent is open to file defamatory suit against the RoC official.
- b. In response to communication of Mr. Manish Gupta, the Respondent submitted that Mr. Manish Gupta is an employee of Mr. Rajinder Chabra and the dispute with him relates to ownership and construction of property situated at E-32, GK-1, Delhi-110048 and Justice S.N. Dhingra, Arbitrator has disposed off the matter by his award in the matter on 04/07/2019. An appeal before Hon'ble Delhi High Court against the award has been filed and the same is pending.
- c. In response to communication of Mr. Naresh C. Bansal, the Respondent submitted that the case filed by UPFC on M/s Jersey Industries Ltd. is for recovery of some loan financed by the Corporation to the Company. On request of Mr. N.C. Bansal to the Corporation, the One Time Settlement was finalised. The Respondent and his wife Mrs. Reena Mittal who were Directors in the Company during that period have deposited Rs. 11 Lacs.

7. The Board on perusal of the documents and submissions on record was of the view that the alleged involvement of the Respondent in various acts of forgery of bills/invoices/running of shell companies/ layering of funds through illegal channels etc. cannot be ruled out. Further, the mere fact that the name of the Respondent as a professional chartered accountant is associated in the said matter, has clearly brought

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disrepute to the profession of chartered accountants and needs to be corrected so as to set correct precedent in the society. Accordingly, the Board holds the Respondent guilty in respect of the aforesaid charge.

CONCLUSION:

8. Thus, in conclusion, in the considered opinion of the Board, the Respondent is held **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.

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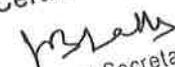
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CA. SUSHIL KUMAR GOYAL
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(GOVERNMENT NOMINEE)

Sd/-
CA. DURGESH KUMAR KABRA
(MEMBER)

DATE: 30th JANUARY, 2020

PLACE: NEW DELHI

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Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Ghawan, I.P. Marg, New Delhi-110 002