



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

PPR-12/15/DD/11/INF/15/BOD/231/16

**ORDER UNDER SECTION 21A(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. Sunil Kumar Mandhanya (M.No.078342) in Re: Respondent

[PPR-12/15/DD/11/INF/15/BOD/231/2016]

MEMBERS PRESENT:

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

Date of Hearing – 9th March 2020

1. The Board of Discipline vide Report dated 11th June, 2019 was of the opinion that **CA. Sunil Kumar Mandhanya** (M. No. 078342) is guilty of Professional Misconduct falling within the meaning of Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
2. An action under Section 21A(3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Sunil Kumar Mandhanya** and communication dated 26th February, 2020, was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 09th March, 2020.
3. **CA. Sunil Kumar Mandhanya** vide email dated 27th February 2020 referred to his written representation sent earlier vide letter dated 27th November 2019 and also appeared personally before the Board on 09th March, 2020 and made his oral submissions thereat.
4. **CA. Sunil Kumar Mandhanya** in his written representation, inter-alia, submitted as under:-
 - (a) He gave his professional services to CEDMAP by entering into a MOU, with the Project Director CEDMAP. On the basis of the said MOU, he had started the work for CEDMAP. CEDMAP gave him title name i.e. State Coordinator of CEDMAP for smooth running of project and Coordination purpose. CEDMAP issued letter from time to time for doing communication with the respective authority of the concerned Department.

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(b) The Respondent did not make any separate firm in the name of "Rajya Samanvayak" because this was only the title name and not his firm name. "Rajya Samanvayak" is the Hindi version of "State Coordinator".

(c) His firm's name is "Sunil Mandhanya and Company" which was clearly mentioned in all letters/circular issued from time to time by the Project Director CEDMAP who has signed the MOU also.

(d) The Respondent did not take permission from Institute to serve CEDMAP as the service rendered by him was not in the nature for which he was required to take prior approval/permission from Institute. As per the Code of Ethics Chapter 5 Point no. 5.2.3 in Section 2(2) of the CA Act, the services rendered by him comes under "Management consultancy and other services" which was provided by his Professional firm i.e. Sunil Mandhanya & Company, Chartered Accountants.

5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Sunil Kumar Mandhanya**.

6. As per the findings of the Board as contained in its report, it has already been conclusively proved that **CA. Sunil Kumar Mandhanya** is Guilty of 'Professional Misconduct' falling within the meaning of Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

7. Upon consideration of the facts of the case, the consequent misconduct of **CA. Sunil Kumar Mandhanya** and keeping in view his oral and written representation before it, **the Board decided to reprimand CA. Sunil Kumar Mandhanya (M.No.078342).**

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Sd/-

CA. PRASANNA KUMAR D.
(PRESIDING OFFICER)

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

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. Sunil Kumar Mandhanya (M.No.078342) in Re:

[PPR-12/15/DD/11/INF/15/BOD/231/2016]

CORAM:

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

In the matter of:

**CA. Sunil Kumar Mandhanya,
49, Sector – A,
Vidhya Nagar,
Hoshangabad Road
BHOPAL – 462 026**

.....Respondent

DATE OF HEARING: 11.06.2019

PLACE OF HEARING: JAIPUR

PARTIES PRESENT:

Respondent : CA. Sunil Kumar Mandhyanya

Findings:

1. The Board noted that the Respondent was held guilty by the Director (Discipline) of other misconduct falling within the meaning of Clause (2) of Part I of the First Schedule to the Chartered Accountants Act, 1949 on the allegation that the Respondent opened a forged bank in the account name of "Centre for Entrepreneurship Development Madhya Pradesh" (CEDMAP) in Punjab National Bank, Bhopal and embezzled the funds of Government and CEDMAP.

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2. The Board noted that the Respondent in this regard submitted that Madhya Pradesh Police Thana M.P. Nagar, Bhopal had re-investigated the said case at their level and given clean report against the Respondent and same was submitted to Superintendent of Police M.P. Nagar Zone, Bhopal. On the basis of said investigation it is revealed that the allegation imposed against the Respondent was false and baseless, it was found that Executive Director of CEDMAP, CA. Jitender Tiwari had lodged unnecessary false FIR against the Respondent.
3. The Board noted that as per clause 3.2 of MOU signed by the Respondent opening of account in the name of CEDMAP or CITA was prohibited. Inspite of the said MOU, the Respondent opened account in the name of CEDMAP. On perusal of the Investigation report, the Board noted that Branch Manager, Punjab National Bank himself confirmed that said account was opened on the basis of verbal confirmation given by Mr. Jitender Tiwari (ED, CEDMAP) and the said Branch Manager has also given a written affidavit to police at the time of investigation. The Respondent had also brought on record copy of said affidavit. On perusal of the same, the Board opined that there was verbal confirmation from the Executive Director which has also been confirmed by the Bank authorities.
4. Hence, it is clear from document produced on record by the Respondent that a clear report was issued by the police department and no case is pending. The Board also noted that pending Service Tax has been duly reconciled. Accordingly, the Board hold the Respondent not guilty of charge mentioned under clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.
5. The Board during the course of hearing noted that the Respondent was running Proprietorship Firm to work with "Regional Independent Business Association" (RIBA). The Board looking into the documents available on record, decided to have enquiry as to whether the Respondent has obtained permission of the Council to engage in business. Accordingly, the Board gave opportunity to the Respondent to furnish his submissions. ✓

6. The Board noted that on enquiry from the Respondent agreed that he opened a separate legal entity with the name "Rajya Samanayak CEDMAP" Proprietor CA. Sunil Mandhanya. The Board noted that the same is evident from copy of MOU signed by the Respondent.
7. The Board in this regard noted that as per regulation 190A "A *Chartered Accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council.*" The Respondent in this regard accepted that he had not taken any permission from the Council.
8. The Board accordingly noted that the Respondent failed to adhere to the requirement of Regulation 190A of the Chartered Accountants Regulations, 1988. Looking into the admission of the Respondent, the Board opined that the Respondent is guilty of professional misconduct.

CONCLUSION:

9. Thus, the Board concluded that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-
(ATUL KUMAR GUPTA)
PRESIDING OFFICER


Sd/-
(ARUN KUMAR)
GOVERNMENT NOMINEE

Sd/-
(PRASANNA KUMAR D)
MEMBER

DATE : 11.06.2019

PLACE : JAIPUR



Certified Copy

PARVESH BANSAL
Deputy Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
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