

CONFIDENTIAL

BOARD OF DISCIPLINE
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. : [PR/40/16/DD/132/INF/16/BOD/549/2020]

CORAM:

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| CA. Prasanna Kumar D., Presiding Officer | (attended physically from ICAI Bhawan, Vishwas Nagar, New Delhi) |
| Mrs. Rani Nair (IRS, Retd.), Government Nominee | (attended through video conferencing) |
| CA. Durgesh Kumar Kabra, Member | (attended physically from ICAI Bhawan, Vishwas Nagar, New Delhi) |

In the matter of:

CA. Pulkit Jain (M. No. 525988) in Re:
House No. B-186,
Lok Vihar,
Pitampura,
Delhi-110034

....Respondent

DATE OF FINAL HEARING : 18th January, 2021
PLACE OF HEARING : Physically/Through video conferencing

PARTIES PRESENT

Respondent : CA. Pulkit Jain (M.No. 525988)
Counsel for the Respondent : Shri Rahul Malhotra, Advocate

FINDINGS:

Charge alleged:

1. The Informant through his e-mail provided the forwarded e-mail from M/s Legal Raasta Technologies Private Limited (hereinafter referred to as "the Company") claiming to be one of the largest CA/CS firm with high quality work. The Informant alleged that the Respondent solicited client and professional work by advertising the professional attainment of the Company through e-mails which titles "Save 50% of on your company's CA & legal cost! LegalRaasta your online CA" and in the content it refers to the Company as "One of India's largest online CA/CS firm promises high quality at 50% lower costs". The Informant also provided the extract of Yellow Pages wherein the name and contact details of the Respondent were mentioned on the page providing information relating to the company.
2. The Board heard the submissions of the Respondent who was present before it alongwith his Counsel through video conferencing and duly considered the documents available on record.

3. The Board noted that the Respondent, in his defence, inter-alia, submitted as under:
- (a) The Respondent is a practicing Chartered Accountant and is not involved in the day to day affairs of any entity whatsoever including the company M/s Legal Raasta Technologies Private Limited.
 - (b) The Respondent has nothing whatsoever to do with the company.
 - (c) When the Company was incorporated by him for his cousin brother namely Mr. Himanshu Jain, he used his email id and phone number for the purpose of incorporation and follow up thereafter. He does not have DIN number and the Forms were not filed on MCA website by his DIN number. The Respondent gave similar reasoning in respect of his e-mail id shown in the master details of the Company on MCA website.
 - (d) Once the complaint was received by the Respondent in 2017, the Respondent immediately realized his bonafide mistake and inadvertent unintentional error. He called upon his brother to change/modify the details of the company i.e. the registered address, mobile no. and the email id. Since then, no record of the company shall find mention of any of the particulars of the Respondent.
 - (e) Since the Respondent had assisted his brother in constitution of the said company, the declaration in Form INC-8 was signed by the Respondent in his professional capacity. It is a provision in law and practice that Form INC-8 has to be signed by Chartered Accountant or Company Secretary at the time of the constitution of the company. Signing of the said Form does not render the Respondent to be a part of or associated with the said company.
 - (f) Since the company was constituted by employing the particulars of the Respondent, the email id and mobile no. of the Respondent finds mention in the annual return for the FY 2016-17 also.
 - (g) Since the company belonged to his brother, the Respondent in an immature manner and with no ulterior motives claimed himself to be the co-founder of the said company on the social media website LinkedIn. The Respondent claimed neither to be the shareholder/promoter or the director of the said company which proves that the Respondent was never associated or involved with the day to day affairs and management of the said company. The term 'cofounder' is not a designation provided in any of the statutes. Realizing the inadvertent mistake, the Respondent has removed the said claim from the social media website.
 - (h) The emails placed on record by the Informant were addressed by the company Legal Raasta Technologies Private Limited and the same has nothing whatsoever to do with the Respondent. The Respondent had not issued the email and further the email was not issued at behest of the Respondent.
 - (i) The extract of the yellow pages has nothing whatsoever to do with the Respondent. The same has not been uploaded by the Respondent.
 - (j) There was no contract agreement between him and M/S Legal Raasta Technologies Private Limited in the FY 2015-16 and 2016- 17.
 - (k) There is no document to show that the Respondent has solicited clients or professional work by way of circular, advertisement, personal communication, interview or by any other means. Further, there is no document to show that the Respondent advertised his professional attainments ' or services or used any designation other than Chartered Accountant on professional documents, visiting cards, letter heads or sign boards.



4. The Board also perused the following documents brought on record by the Respondent alongwith his written submissions:
 - (a) Copy of Income Tax Return for FY 2015-16 and 2016- 17.
 - (b) Copy of Form 26AS for FY 201 5-16 and 2016-17.

5. On perusal of the documents and submissions on record, the Board observed that the company was incorporated on 12th January 2016 with 2 directors Ms. Varsha Jain and Ms. Sunita Jain. The Respondent rendered his services for the incorporation and constitution of the Company as evident from the declaration in Form INC-8. The Board further noted that the Respondent is neither a shareholder nor a director in the said Company. On perusal of the acknowledgement of the Income Tax Return of the Respondent for FY 2015-16 and FY 2016-17 together with the Copy of Form 26AS for the said years, the Board observed that major share of his income during the said period was contractual income for which tax had been deducted under Section 194C by an individual namely Ms. Veena Agarwal and the company M/s Legal Raasta Technologies Private Limited respectively for the said years. Further, in respect of FY 2016-17, tax had also been deducted under section 192 by the entity M/s Legal Raasta. The Board also noted that during the course of enquiry, the Respondent stated that in respect of the aforesaid assignments, the billing was done in the name of the company.

6. The Board on perusal of the email dated 12th February 2016 sent by the entity M/s Legal Raasta to the Informant observed that neither the name of the Respondent nor his email id/mobile number was mentioned in the said email. Only the address which was common with the Respondent was specified in the said email as being in a joint family, his cousin brother who was running the said entity/company was residing at the said place and managing the said entity /company from there.

7. The Board noted that as regards the listing of his name in the yellow pages under the name 'Legal Raasta, the Respondent stated that he never got his name registered for the same. Yellow pages has created its own data base for its records on the basis of information available on the internet mentioned the name as "Legal Rasta" and not as "Chartered Accountant".

8. The Board also noted the submission of the Respondent that the only mistake committed by him was writing the word, 'co-founder' on his linked-in profile and the same has now been removed.

9. In view of the above, the Board opined that it is clear that the Respondent was not associated with the company either as a shareholder or director or in such capacity to exercise control over its affairs. Further, there was no mention of the name of the Respondent in the alleged email dated 12th February 2016 sent by the said entity/company to the Informant. Thus, it cannot be held that the Respondent solicited the clients/professional work, whether directly or indirectly by circular, advertisement, or other means or advertised his professional attainments through the said email.

10. While arriving at its findings, the Board also noted that in the copy of Form 26AS for the FY 2016-17, tax had also been deducted under section 192 by the entity M/s Legal Raasta with respect to transactions carried out in the month of May 2016, June 2016 and July 2016 whereas the Respondent was holding the certificate of practice since July 2012 and started his practice under the firm name Pulkit A Jain & Associates with effect from 21st September 2016 and also trained articled clerk during this period. Thus, the Board directed the Director(Discipline) to examine and investigate this aspect with respect to violation of Item (11) of Part I of the First Schedule to the Chartered Accountants 1949 by the Respondent.

CONCLUSION:

11. Thus, the Board of Discipline, in view of the above, is of the considered opinion that the Respondent is **Not Guilty** of Professional Misconduct falling within the meaning of Item (6) and (7) of Part I of First Schedule to the Chartered Accountants Act 1949. Accordingly, the Board passed Order for closure of the case 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.

Sd/-

**CA. PRASANNA KUMAR D.
(PRESIDING OFFICER)**

DATE: 11th February, 2021

Certified to be true copy


**Mukesh Kumar Mittal
Assistant Secretary,
Disciplinary Directorate**

**The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032**