



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

[PR/319/2016-DD/25/2017/BOD/496/2018]

**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:-

Shri Shakeel Abdul Gafur Murtuza, President  
Jamatul Muslimin Bazarpath, Ratnagiri  
....Complainant

-Vs-

CA. Neelkanth Shridhar Patwardhan (M.No. 013807) of M/s. Patwardhan & Associates,  
Chartered Accountants, Ratnagiri ....  
Respondent

[PR/319/2016-DD/25/2017/BOD/496/2018]

**MEMBERS PRESENT(through video conferencing):**

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

**Date of Final Hearing: 18<sup>th</sup> September, 2020**

1. The Board of Discipline vide Report dated 26<sup>th</sup> June, 2019 was of the opinion that CA. Neelkanth Shridhar Patwardhan (M.No. 013807) 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.

2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Neelkanth Shridhar Patwardhan and communication dated 10<sup>th</sup> September, 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 18<sup>th</sup> September, 2020.

3. CA. Neelkanth Shridhar Patwardhan did not appear before the Board on 18<sup>th</sup> September, 2020. However, he had made his written representation vide letter dated 21<sup>st</sup> November, 2019. Keeping in view the provisions of Rule 15 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and conduct of Cases) Rules, 2007, the Board decided to proceed ahead in the matter presuming that the Respondent had nothing more to represent before it.

4. CA. Neelkanth Shridhar Patwardhan in his written representation inter-alia submitted as under:



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4.1 Finding did not state any certain (fixed) amount of goodwill and also amount of goodwill estimated by new C.A. Firm, and by complaint maker.

4.2 No complaint was made in Form 'I' by new C.A. Firm about huge amount, as good will, which was not estimated by them.

4.3 How many times, Respondent made repeated request to new C.A. Firm for estimation of good will, is not mentioned in the findings.

4.4 How much expenditure will be provided by complaint maker for undecided huge goodwill, is not specifically mentioned in findings.

4.5 Secretary of said trust Mr.S.Mujawar did not made complaint against Respondent on the subject of specific amount of goodwill.

4.6 Examples are not given in the findings of the Board to resemble any type of reasons applicable in such case of Other Misconduct, as near to such of type of cases. Hence the findings are not related with the points of complaint made by President of said trust.

4.7 Points of Merits of the case are not stated and the Board's findings are based on the assumption of huge amount of uncertain goodwill and not based on the actual certain estimated amount of goodwill. Therefore, assumption of uncertainly never become true and valid nature of certainty for making valid findings or Judgement or decision against the Respondent.

5. The Board has carefully gone through the facts of the case and also the written representation of CA. Neelkanth Shridhar Patwardhan. The Board was of the view that there is no inclusive definition of 'Other Misconduct' as per Section 22 of the Chartered Accountants Act 1949 read with Clause (2) of Part IV of the First Schedule of the Chartered Accountants Act, 1949. Further, as per the findings of the Board as contained in its report, in the letter dated 13th June, 2016 issued by the Respondent to newly appointed auditor in reply to the letter seeking his no-objection, as regard the issue of goodwill, the Respondent stated as under:

*"During last more than 35 years, we are the auditor of the said trust and hence our professional Goodwill value is created, Therefore new incoming auditor and the management of the trust should decide proper goodwill value while removing us as an auditor"*.

The Board was of the view that raising objections by demanding goodwill amount in respect of services rendered indicates unethical behaviour on the part of the Respondent. Further, demanding goodwill amount for issuance of no objection to incoming auditor despite receiving audit fee on regular basis from the Trust is certainly an act unbecoming of a Chartered Accountant and the quantum of goodwill allegedly demanded is not germane to the issue. Thus, it has already been conclusively proved that CA. Neelkanth Shridhar

Patwardhan is Guilty of 'Other Misconduct' falling within the meaning of Clause (2) of Part,   
Shri Shakeel Abdul Gafur Murtuza, President, Jamatul Muslimin Bazarpath, Ratnagiri -vs- Neelkanth Shridhar Patwardhan (M.No. 013807) of M/s. Patwardhan & Associates, Chartered Accountants, Ratnagiri



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IV of the First Schedule of the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

7. Upon consideration of the facts of the case, the consequent misconduct of CA. Neelkanth Shridhar Patwardhan and keeping in view his representation before it, the Board decided to Reprimand CA. Neelkanth Shridhar Patwardhan (M.No. 013807) and also imposed a fine of Rs.25,000/- (Rs. Twenty Five Thousand only) upon him payable within a period of 60 days from the date of receipt of the Order.

h

Sd/-

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

Certified to be true copy  
*Prasanna*  
CA. Harleen Bhatia  
Assistant Secretary  
Disciplinary Director  
The Institute of Chartered Accountants of India  
10/Al Bhawan, Vishwas Nagar, Sector 17, Gurgaon

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**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**

**Shri Shakeel Abdul Gafur Murtuza, President Jamatul Muslimin**  
**Bazarpath, Ratnagiri**

**-Vs-**

**CA. Neelkanth Shridhar Patwardhan (M.No. 013807) of M/s. Patwardhan & Associates, Chartered Accountants, Ratnagiri**

**[PR/319/2016-DD/25/2017/BOD/496/2018]**

**CORAM:**

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

**In the matter of:**

**Shri Shakeel Abdul Gafur Murtuza**  
**President**  
**The Jamatul Muslimin Bazarpath**  
**Jama Masjid, Zarni Road**  
**Ratnagiri-415612**

**.....Complainant**

**Versus**

**CA. Neelkanth Shridhar Patwardhan**  
**M/s Patwardhan & Associates.,**  
**Chartered Accountants**  
**G-4, Rukmini Apartment,**  
**Near Athavada Bazar Road, Lane-1**  
**RATNAGIRI-415612**

**.....Respondent**

**DATE OF FINAL HEARING: 26.06.2019**

**PLACE OF HEARING: MUMBAI**

**13**

**PARTIES PRESENT:**

**Counsel for the Complainant: Shri Zahoor N. Hakim, Advocate**

**Findings:**

1. The Board noted that the Respondent was held guilty by the Director (Discipline) of Other Misconduct falling within the meaning of Clauses (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of said Act on the charge that he was demanding money from client as Goodwill for the services rendered despite his fees was regularly paid.
2. The Board noted that the Respondent did not appear before it despite due service of notice and there was no intimation from him regarding his non-appearance. Looking into absence of the Respondent, the Board in this regard took reference to Rule 14 of the aforesaid Rules relating to "Procedure to be followed by the Board of Discipline" whereby as per sub rule (7) it is mentioned as under:  
*"(7) On the date of hearing, if the respondent, in spite of the service of notice, under sub rule (6) does not appear either in person or through his authorised representative the Board of Discipline may proceed ex-parte and pass such orders as may think fit or direct fresh notice to be served."*

The Board accordingly decided to take up the matter ex-parte the Respondent and decided to proceed on the merits of the case.

3. The Board perused copy of letter dated 13<sup>th</sup> June, 2016 (C-13) issued by the Respondent to newly appointed auditor in reply to NOC highlighting the issue of goodwill is placed on record by the Complainant in which the Respondent is stated as under:

*"During last more than 35 years, we are the auditor of the said trust and hence our professional Goodwill value is created, Therefore new incoming auditor and the management of the trust should decide proper goodwill value while removing us as an auditor"*

4. The Board on perusal of the same, noticed that raising objections by demanding goodwill amount in respect of services rendered indicates unethical behaviour on the part of the Respondent. Demanding goodwill amount for issuance of NOC to incoming auditor is certainly an act unbecoming of Chartered Accountant. This is more so when the Respondent demanded huge sum of money on account of goodwill in spite of receiving audit fee on regular basis from the Trust.

**CONCLUSION:**

5. Thus, the Board concluded that the Respondent 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.

**Sd/-**  
**(ATUL KUMAR GUPTA)**

**PRESIDING OFFICER**

**Sd/-**  
**(ARUN KUMAR)**

**GOVERNMENT NOMINEE**

**Sd/-**  
**(PRASANNA KUMAR D)**

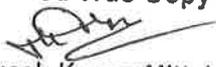
**MEMBER**

**DATE : 26.06.2019**

**PLACE : MUMBAI**

**✍**

**Certified True Copy**

  
**Mukesh Kumar Mittal**  
Assistant Secretary  
Disciplinary Directorate

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