



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

PR/238/18/DD-16/19/BOD/538/2019

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:-

Ms. Vinti Vaid, Haryana

...Complainant

-Vs.-

**CA. Sachin Jain (M. No. 541824),
M/s Sachin S. Jain & Co., New Delhi**

...Respondent

[PR/238/18/DD-16/19/BOD/538/2019]

MEMBERS PRESENT: (Through video conferencing)

CA. Prasanna Kumar D., Presiding Officer

Mrs. Rani Nair, (IRS, Retd.), Government Nominee

Date of Final Hearing: 28th October, 2021

1. The Board of Discipline vide Report dated 11th February, 2021 held that **CA. Sachin Jain (M. No. 541824)** is guilty of "Other Misconduct" falling within the meaning of Item (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. Sachin Jain** and communication dated 21st October, 2021 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 28th October, 2021. Thereafter, he submitted his written representation dated 27th October, 2021 on the Findings of the Board.
3. **CA. Sachin Jain** appeared before the Board on 28th October, 2021 through video conferencing and made his oral representation thereat.
4. **CA. Sachin Jain** in his written representation dated 27th October, 2021 inter-alia submitted as under:-
 - a. The contract to provide the following services with the Complainant was entered in the first week of April, 2017:-
 - i. Accounting services for the FY 2016-17
 - ii. Accounting services for the April-June, 2017
 - iii. Service Tax Return for FY 2016-17
 - iv. Issuance of Digital Signature Certificate
 - v. GST Migration



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An invoice for the above referred services was issued on 19/04/2017 to be payable within seven days of the receipt of the invoice. The Respondent requested the Board to consider the quantum of fees charged by the Respondent Firm for the services listed above.

- b. The Complainant had concluded within a period of just two months that services of Respondent were not at par to her expectation, and sent an email on 21/06/2017, confirming the termination of contract and with an instruction not to take any further actions on her behalf. The Respondent further requested the Board to consider whether an opinion on quality of services of any Chartered Accountant can be framed in a period of two months for providing the above listed services.
- c. The Complainant had asked for her GST credential, on Friday, 30/06/2017 at 22:59 hours midnight. This cannot be a good time to approach anyone for any information. The concept of GST and GST migration was well under consideration since the first week of April, 2017.
- d. The Respondent had responded to the Complainant on Saturday, 01/07/2017 at 12:50 hours noon, on an office closed day i.e. within 14 hours of the receipt of Complainant's message. Further, the Respondent has sent all GST credentials on Monday, 03/07/2017 at 12:35 hours noon. Thus, the Respondent acted as they were supposed to, even in case of non-receipt of payment against invoice raised by Respondent.
- e. As per page C-8 of the case papers, it can be seen that Complainant was consulting Respondent and had raised few queries on compliances. The Respondent was doing so in a situation where contract between the parties was terminated and invoice raised was not paid.
- f. Regarding the issue that Respondent had provided email id and phone number of one of their employee to the Complainant and the Complainant was unable to reset her account in time, the Respondent submitted that it is not the email id or mobile number that is required to recover GST account, in fact, it was the login credentials that was required. It can be checked in anyone's office that if you have your GST login details, then you can change your registered email id and phone number by just filling an amendment in non-core fields.
- g. The Complainant on successful retrieval of GST credentials, has not filled even a single return till date, even after amnesty scheme for 100% waiver of late fees on filing of GST returns. Further, the bonafide error done by employee of the Respondent has no impact on the Complainant's business and has caused no mental harassment to the Complainant.

5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Sachin Jain**. The Board viewed that the plea raised at this stage regarding submission of credentials with Complainant within time i.e. on Monday, 03/07/2017 at 12:35 hours through email even on non-receipt of payment of invoice raised by him are merely an afterthought as the Complainant was unable to recover her GST account as the recovery option contained the email id/mobile number of one of the employee of the Respondent. As regards the plea of the Respondent that the bonafide error done by employee of the Respondent had no impact on the Complainant's business and has caused no mental harassment to the Complainant, the Board viewed that as

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evident from the submissions/documents of the Complainant during the proceedings, she had to run from pillar to post to get back access of her GST Account and had to approach concerned authorities for the said recovery.

6. Further, as per the Findings of the Board as contained in its report, the Respondent provided email ID and mobile number of one of his employee while providing registration services with GST due to which the Complainant was unable to reset her account in time. The Complainant in order to reset her account had to approach AO, Service Tax Commissionerate, Gurgaon vide communication dated 29th August 2017 to update her GST account with her email ID and mobile number and thereafter, got the access of her account after rigorous follow up. The Board further observed that as a prudent professional the Respondent ought to have kept his client informed of any changes in her access details and not that when the client seeks such details, the same are provided to her or may be he should have facilitated the recovery of the password, account details, etc. especially when his employee details were used for the purpose of registration. A Chartered Accountant should maintain transparency in his relation with the client so as to win his/her trust and maintain cordial relation with them which in the instant case was completely lacking due to which the Complainant was subject to undue mental harassment. In view of the same, the Board held that the conduct of the Respondent has certainly brought disrepute to the profession and thus, it has already been held that **CA. Sachin Jain** is Guilty of Other Misconduct falling within the meaning of Item (2) of Part 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. Sachin Jain (M. No. 541824)** and keeping in view his oral and written representation before it, the Board decided to Reprimand **CA. Sachin Jain (M.No.541824)** and also imposed a fine of **Rs.10,000/- (Rs. Ten 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)

Date: 1st February, 2022

सही प्रतिलिपि होने के लिए प्रमाणित /
Certified to be true copy


बिषा नथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhowan, Vishwas Nagar, Shahdra, Delhi

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/238/18/DD-16/19/BOD/538/2019]

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

In the matter of:

Ms. Vinti Vaid
405 Mariners Home, Plot 36D,
Sector 56, Gurgaon
Haryana-122003

....Complainant

-Vs-

CA. Sachin Jain (M. No. 541824)
M/s Sachin S. Jain & Co.
103, HN 630, Westend Marg, Lane 4,
Saidujalab, Saket,
New Delhi-110030

....Respondent

DATE OF FINAL HEARING : 17th December, 2020
PLACE OF HEARING : Delhi/ Through video conferencing

PARTIES PRESENT (through video conferencing):

Complainant : Ms. Vinti Vaid
Respondent : CA. Sachin Jain

FINDINGS:

Background of the case:

1. The brief background of the case is as under:-
 - (a) The Complainant hired the services of the Respondent through Urban Clap for accounting and transfer of Service Tax registration to Goods and Services Tax (GST). However, the Complainant cancelled the services of the Respondent due to poor quality and constant delays by him.

- (b) Thereafter, the Complainant hired the services of another Chartered Accountant to complete her GST registration; however, she found that a GST account had already been created under her name without her knowledge. Thereafter, she wrote to the Respondent confirming if he or his team had created a GST account for the Complainant. In response, the Complainant received an email from unknown person giving her GST credentials.
 - (c) Accordingly, the new Chartered Accountant used the said credentials to complete the GST transfer on behalf of the Complainant. However, to the dismay of the Complainant, a few days later, the credentials stopped working. Hence, the Complainant requested the Respondent to change the registered email ID to her personal ID so that she could handle her account herself.
 - (d) In response, the Respondent informed her that he could help her only if she could remove the negative feedback she had given on Urban Clap.
 - (e) Thereafter, the Complainant approached the AO at GST Office, Gurgaon to change her account details and finally after putting multiple requests she managed to get her GST access as of April, 2019. However, she could not file GST return unless the previous penalties for non-filing of previous returns were paid.
2. The Board while considering the prima facie opinion dated 24th September, 2019 of the Director (Discipline) noted that the Respondent did not submit his Written Statement despite being reminded which in a way amounts to admission of guilt. Accordingly, the Board did not agree with the prima facie opinion of the Director that the Respondent is NOT 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. Further the Board was of the view that the Respondent is also guilty of Clause (2) of Part III of the First Schedule to the said Act. Thus, the Board directed to proceed under chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Board also noted that the Complainant hired the services of the Respondent for accounting and transfer of Service Tax registration to GST through Urban Clap which is a paid website. Thus, the Board directed the office to examine the matter in the said context.

Charges alleged :

3. The following charges were alleged against the Respondent:-
- (a) The Respondent created a GST account on Complainant's behalf using the email address and phone number of someone in his office and withheld the password from her because of which she was unable to file her GST returns. The Respondent be held accountable for paying the GST penalties which have accrued due to his actions.
 - (b) The Respondent failed to supply the information called for from him as he did not submit his written statement in the matter.

Further, the Board directed to examine the issue of offer of services by the Respondent for accounting and transfer of Service Tax registration to GST through Urban Clap which is a paid website.

Proceedings held:

4. During the hearing held on 17th December, 2020, the Complainant and the Respondent appeared before the Board through video conferencing. The Respondent made his detailed oral submissions which were duly countered by the Complainant. On consideration of the documents and submissions on record, the Board decided to conclude the proceedings in the case with the direction to the Complainant to provide information as to the listing of the name of the Respondent on Urban Clap and the feedback left for him by her on the said website with a copy marked to the Respondent. The Board further directed the Respondent to file his counter submission, if any, on the same within 24 hours of the receipt of the submission of the Complainant. Accordingly, the decision of the Board on the misconduct of the Respondent was kept reserved. Thereafter at its meeting held on 30th January, 2021, the Board on consideration of the further submissions received together with the documents already on record, took a decision on the misconduct of the Respondent.

Observations and findings of the Board:

5. With regard to the charge of withholding of the GST account password by the Respondent from the Complainant because of which she was unable to file her GST returns and consequently, the Department (CBIC) levied penalties on the Complainant, the Board on consideration of the submissions of both the parties and other documents available on record observed as under:-
 - a. The Respondent submitted that the Complainant in her complaint herself stated that all the GST credentials were transferred to her through email dated 03/07/2017 and her GST account later on stopped working for which the Respondent cannot be held liable. The Complainant countered the said submission of the Respondent stating that the Respondent created the GST account in her name but submitted email id of some other person at the time of registration which created a hurdle as she was not able to reset the information submitted by the Respondent.
 - b. The Respondent thereafter submitted that the said email details are of one of his employee with the email ID: ankit.ss Jain@gmail.com and his mobile number.
 - c. The Complainant further contended that the procedure for GST registration adopted by the Respondent was not in line with the legal paradigm.
 - d. The Respondent further submitted that the Complainant had approached the Department only in October when the GST was not working. Further, till date the Complainant had not filed a single return and the penalties upto June 2020 were already waived off. If there had been any intention to file those returns, those

returns could have been filed till now. Other GST number has not been applied till date. The Respondent's invoice was also not paid.

6. On perusal of the email correspondence between the Complainant and the Respondent brought on record by the Complainant, the Board observed that the Complainant vide her email dated 30th June 2017 enquired from the Respondent as to whether someone from his team tried to create an account on GST website using her details as she is getting an error message when trying to register saying that her provisional ID has already been mapped to username which was replied by the Respondent vide email dated 1st July 2017 stating that he will revert on the same, if available and probably, it has been done by its team. Thereafter, on 3rd July 2017 again a reminder was sent by the Complainant in response to which one of the employees of the Respondent firm vide email on the same day informed the GST login id and password to the Complainant. The Board also observed that the Respondent provided email ID and mobile number of one of his employee while providing registration services with GST due to which the Complainant was unable to reset her account in time. The Complainant in order to reset her account had to approach AO, Service Tax Commissionerate, Gurgaon vide communication dated 29th August 2017 to update her GST account with her email ID and mobile number and thereafter, got the access of her account after rigorous follow up. In view of the above, the Board observed that as a prudent professional the Respondent ought to have kept his client informed of any changes in her access details and not that when the client seeks such details, the same are provided to them. A chartered accountant should maintain transparency in his relation with the client so as to win his/her trust and maintain cordial relation with them which in the instant case was completely lacking due to which the Complainant was subject to undue mental harassment. The Board was also conscious of the fact that imposition of penalty on the Complainant by the CBIC Department can not necessarily to be said on account of the inaction on the part of the Respondent. It is the overall conduct of the Respondent in dealing with the Complainant, being his client in an unprofessional manner that has not been appreciated by the Board. In view of the above, the Board was of the view that the conduct of the Respondent has certainly brought disrepute to the profession and thus, the Respondent is held guilty in respect of the said charge.
7. With regard to the charge that the Respondent did not submit his written statement at prima facie opinion stage, the Board observed that subsequent to the case being referred for enquiry, the Respondent in his written submissions stated that he vacated the premises where the letter of Institute dated 16/01/2019 was addressed before the said date and thus, the said communication was not received by him. The said change of premises request was also filed by the Respondent with the Institute. Considering the submissions of the Respondent, the Board viewed that non-submission of the written statement by the Respondent at the prima facie stage was

not deliberate and thus, the non-compliance in this regard can be condoned. Accordingly, the Respondent was not held Guilty in respect of the said charge.

8. Further, as regards the issue to be examined whether the Respondent can offer his services for accounting and transfer of Service Tax registration to GST through Urban Clap which is a paid website, the Board noted that an announcement dated 23/10/2019 was issued by the Ethical Standards Board of the Institute which provides that it is not permissible for members in practice to list themselves with Online Application Based Services Provider Aggregators. The said view was also thereafter, supplemented under the revised Code of Ethics (July, 2020).

The Board noted that the Respondent in this regard, submitted that the Complainant approached him through some other CA who was working on such platform. The Complainant also submitted that she contacted a person in Urban Clap and a lady in the said service app put her in touch with the Respondent. The Complainant cancelled her contact and left her feedback over there as she was not happy with the work that the team of Urban Clap had done. As of now, the Complainant had no proof for the conversation that she had with the Respondent. The Complainant further submitted that she had paid 50% of the invoice and the balance 50% was not paid by her.

The Board also perused the copy of the email dated 8th April 2017 from Urbanclap to the Complainant wherein the feedback of the Complainant for hiring the services of CA.Divya Goel had been sought. In response to the same, the Complainant in June 2017 left her feedback wherein she categorically stated that the person in charge was CA. Sachin Jain and not CA.Divya Goel. Also, the Respondent vide email dated 11th April 2017 addressed to the Complainant sought certain documents from her with a copy to CA.Divya Goel. The Board observed that since there is no evidence to show that listing on Urbanclap was done by the Respondent, the matter need not be proceeded in this respect.

9. Thus, having regard to the attendant circumstances, the submissions of the parties on record and other evidence put forth during proceedings, the Board is of the considered view that in respect of the charge of not sharing the password of the GST account which was created by the Respondent for the Complainant with her, it is clearly made out as per the observations made in para 6 above that the Respondent has brought disrepute to the profession and thus, is guilty of "Other Misconduct" falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act 1949 read with Section 22 of the said Act.

CONCLUSION:

10. The Board of Discipline, in view of the above, is of the considered opinion that the Respondent is Guilty of "Other Misconduct" falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountants Act 1949 read with Section 22 of the said Act.

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**