



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

PR/201/2017/DD/212/17/BOD/461/2018

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:-

CA. Kamal Kumar Garg (M.No.523961)

...Complainant

-Vs.-

CA. Rupesh Nagpal (M.No.093500)
M/s. Rupesh Parikshit & Associates (FRN No. 017309N)
Chandigarh

...Respondent

PR/201/2017/DD/212/17/BOD/461/2018

MEMBERS PRESENT

CA. Prasanna Kumar D. **Presiding Officer**

(Physically at ICAI Bhawan, IP Marg,
New Delhi)

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

(Through video conferencing)

CA. Satish Kumar Gupta, Member

(Through video conferencing)

Date of Final Hearing: 6th August, 2021

1. The Board of Discipline vide Report dated 11th February, 2021 held that CA. Rupesh Nagpal (M.No.093500) is guilty of "Professional Misconduct" falling within the meaning of Item (8) of Part-I of the First Schedule of the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Rupesh Nagpal and communication dated 29th July, 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 6th August, 2021.
3. CA. Rupesh Nagpal appeared before the Board through video conferencing and made his oral representation.
4. The Board has carefully gone through the facts of the case and also the oral representation of CA. Rupesh Nagpal.
5. As per the Findings of the Board as contained in its report, CA. Rupesh Nagpal categorically accepted his guilt that he did not communicate with the Complainant before accepting the tax audit of M/s. Mega Enterprises and M/s. Radica Enterprises for the financial year 2012-13 and thus, it has already been held that CA. Rupesh Nagpal is Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule of the Chartered Accountants Act, 1949.

BSK



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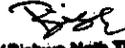
PR/201/2017/DD/212/17/BOD/461/2018

6. Upon consideration of the facts of the case, the consequent misconduct of **CA. Rupesh Nagpal** and keeping in view his oral representation before it, **the Board decided to Reprimand CA. Rupesh Nagpal (M.No.093500).**

Sd/-
CA. PRASANNA KUMAR D.
(PRESIDING OFFICER)

Date: 10th January, 2022

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


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

placed before the Board at its meeting held on 30th January, 2021 together with the further submissions received and the Board on consideration of the facts together with the documents on record arrived at its findings.

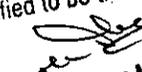
3. The Board noted that the Respondent in his defence, inter-alia, stated as hereunder:
- The complaint is frivolous as the Complainant has admitted himself that the Audit for the year was conducted on his request as he showed his inability to take up the Professional Assignment for the client only after signing of the Audit Report for the year 2011-12, due to regular (in day-to-day matters) advice required by the Client and requested the Respondent to take up the Assignment individually for future years. The Respondent communicated his acceptance to the Complainant well in time before taking the Assignment of Audit for the Year 2012-13 onwards hence he has no right to file the complaint for not communicating him before the taking up of the Audit Assignment for the Next Year.
 - When the outgoing Auditor himself has admitted that the Audit for the Previous Year was conducted by him on the request of incoming Auditor for the next year in that event Respondent being the incoming auditor took privilege to not to communicate the Complainant seeking his no-objection.
 - The Respondent admitted that not communicating with the Complainant under Clause (8) of Part 1 of the First Schedule to the Chartered Accountants Act, 1949 was his mistake that was committed by him in good faith and assured that he will be more careful in future in complying with the provisions of Chartered Accountants Act and Regulations framed there under.
4. The Board took into view the provision of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949 which provides as under:-
- "(8) accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing"*
- The Board observed that in the instant case, the Respondent categorically accepted his guilt that he did not communicate with the Complainant before accepting the tax audit of M/s Mega Enterprises and M/s Radica Enterprises for the financial year 2012-13. Accordingly, the Board decided to hold the Respondent guilty of professional misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

CONCLUSION:

5. Thus, the Board of Discipline, in view of the above, is of the considered opinion that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (8) of Part I of First Schedule to the Chartered Accountants Act 1949.

Sd/-

CA. PRASANNA KUMAR D.
(PRESIDING OFFICER)

Certified to be true copy

Mukesh Kumar Mittal
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India.
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