



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

PR/353/19-DD/309/2019/BOD/591/2021

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. Gopal Krishna Garg, Mumbai ...Complainant

-Vs.-

CA. Vivek Girish Gaggar (M. No. 162330), Mumbai ...Respondent

[PR/353/19-DD/309/2019/BOD/591/2021]

MEMBERS PRESENT:

CA. Prasanna Kumar D., Presiding Officer (In person)

Mrs. Rani Nair, (IRS, Retd.), Government Nominee (Through video conferencing)

Date of Final Hearing: 9 February, 2022

1. The Board of Discipline vide Report dated 10th January, 2022 held that **CA. Vivek Girish Gaggar (M. No. 162330)** is Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of 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. Vivek Girish Gaggar** and communication dated 2nd February, 2022 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 9th February, 2022.
3. **CA. Vivek Girish Gaggar** appeared before the Board on 9th February, 2022 through video conferencing and made his oral representation thereat.
4. The Board has carefully gone through the facts of the case and also the oral representation of **CA. Vivek Girish Gaggar**.
5. As per the Findings of the Board as contained in its report, **CA. Vivek Girish Gaggar** accepted the Tax audit of Smt. Nikita Rajkumar Singhal (PAN no. AADPG4076B) ("Assesse") for the Financial Year 2017-18 (AY 2018-19) without communicating with the Complainant who was the previous auditor of such Assesse. Further, **CA. Vivek Girish Gaggar** admitted his mistake in his written submissions made vide his letter dated 28th February, 2020 at the Prima Facie Opinion stage and also verbally before the Board during the proceedings held on 28th September, 2021. Thus, it has already been conclusively held that **CA. Vivek Girish Gaggar** is Guilty of Professional Misconduct



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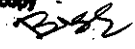
falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

6. Upon consideration of the facts of the case, the consequent misconduct of **CA. Vivek Girish Gaggar (M. No. 162330)** and keeping in view his oral representation before it, **the Board decided to Reprimand CA. Vivek Girish Gaggar (M. No. 162330).**

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

Date: 11th February, 2022

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


बिष्व नाथ थिबारी / Bishwa Nath Thandi
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 Bhawan, Vishwas Nagar, Shandra, Delhi-110032

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/353/19-DD/309/2019/BOD/591/2021]

CORAM: (Through Video Conferencing)

CA. Prasanna Kumar D., Presiding Officer

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

CA. Satish Kumar Gupta, Member

In the matter of:

CA. Gopal Krishna Garg

305, White House,

S.V Road,

Andheri (West),

Mumbai – 400 058

.....Complainant

-Vs.-

CA. Vivek Girish Gaggar (M.No.162330)

102, 1st Floor, Shree Swayambhu Gaondevi Apartment,

Chinchpada, Near Abhyudaya Bank

Borivali(East)

Mumbai – 400 066

.....Respondent

DATE OF FINAL HEARING : 28th September, 2021

PLACE OF HEARING : Through Video Conferencing

PARTIES PRESENT (Through video Conferencing):

RESPONDENT : CA. Vivek Girish Gaggar

FINDINGS:

Charge alleged:

1. The allegation against the Respondent is that he accepted the Tax audit of Smt. Nikita Rajkumar Singhal (PAN no. AADPG4076B) (hereinafter referred to as the "assesse") for the Financial Year 2017-18 (AY 2018-19) without communicating with the Complainant who was the previous auditor of such assessee.

Proceedings held:

2. During the proceedings held on 28th September 2021, the Board noted that the Respondent was present before it through video conferencing. However, the Complainant was neither present before it nor was there any intimation as regards his non-appearance. Since the notice for hearing was duly served upon the Complainant, the Board decided to proceed ahead with the hearing in the case. Thereafter, the Respondent was put on oath and he confirmed that he has read and understood the contents of the modalities and protocols of e-hearing and follow them. The charges alleged against the Respondent were treated as read. Thereafter, on being asked by the Board as to whether the Respondent pleaded guilty in respect of the charges alleged against him, he replied in affirmative and accepted his guilt before the Board. The Respondent was examined by the Board.

Thus, the Board on consideration of the submissions and documents on record decided on the conduct of the Respondent and concluded the proceedings.

Submissions of the Respondent:

3. The Respondent submitted that he signed the Tax Audit Report of Smt. Nikita Rajkumar Singhal for the FY 2017-18 (AY 2018-19) and had failed to communicate with the erstwhile auditor (Complainant) while accepting his appointment as auditor. The Respondent further apologized for the same and requested for minimum action from the Institute.

Observations and Findings of the Board:

4. The Board on consideration of the submissions and documents available on record, observed as under:
 - 4.1 The Board noted that the Complainant alongwith his complaint has filed copy of ITR-3 of the Assesse with Acknowledgment Number 367058481311018 for Assessment Year 2018-19 showing that the Respondent was her Tax auditor.

- 4.2 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."

- 4.3 The Board noted that the Respondent admitted his mistake in his written submissions made vide his letter dated 28th February, 2020 at the Prima Facie Opinion stage and also verbally before it during the proceedings held on 28th September, 2021.

5. Having regard to the attendant circumstances, the evidence on record and the submissions of the parties, the Board is of the considered view that the Respondent has committed an act of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 for accepting Tax audit of Smt. Nikita Rajkumar Singhal for FY 2017-18 (AY 2018-19) without first communicating with the Complainant.

CONCLUSION:

6. The Board of Discipline, in view of the above, is of the considered view 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)

Date: 10th January, 2022


प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए, ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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