



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

PR-247/17/DD-288/17/BOD/545/2020

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. Astha Jain (M.No.541354), Delhi

...Complainant

-Vs.-

CA. Sheetal Jain (M.No.406565),\

Muzaffarnagar (U.P.)

...Respondent

[PR-247/17/DD-288/17/BOD/545/2020]

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. Sheetal Jain (M.No.406565)** 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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Sheetal 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. **CA. Sheetal Jain** vide email dated 27th October, 2021 submitted his written representation on the Findings of the Board.
3. **CA. Sheetal Jain** appeared before the Board on 28th October, 2021 through video conferencing and made his oral representation thereat. Considering the same, the Board directed the office to find out how many times the Respondent logged in SSP portal to record the resignation of the paid assistant, CA. Astha Jain (M.No.541354) from his firm. Accordingly, the decision on the quantum of punishment to be awarded to the Respondent was reserved by the Board.



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4. Thereafter, the Board at its meeting held on 25th November, 2021 amongst other submissions and records in the case noted that neither any application was raised by the Respondent for removal of the Complainant as his paid assistant nor any request was submitted or saved by the Complainant in the system. The Board also noted that it had at its meeting held on 5th October 2021 wherein the Respondent was present, directed the office to seek information from the Professional Development Committee of the ICAI whether the Respondent has taken/continued to take credit in the Multipurpose Empanelment Form for Bank Audits and other assignments in respect of CA. Astha Jain (M. No. 541354) by showing her as a paid assistant in his firm. The Professional Development Committee of the ICAI informed that credit of 1 (One) Paid Chartered Accountant for CA. Astha Jain (MRN 541354) has been given to the said firm in the Bank Branch Auditors' panel for the year 2017-2018, 2019-2020 and 2020-2021. The same was also indicated/marked as deleted by the concerned firm in the Multipurpose Empanelment Form for the year 2019-2020 and 2020-2021. Even if credit of CA. Astha Jain (MRN 541354) as paid CA was not considered for Bank Branch Auditors' Panel for the respective years even then the firm would have been categorized in same category. Accordingly, the Board decided on the quantum of punishment to be awarded to **CA. Sheetal Jain**.

5. The Board also noted that **CA. Sheetal Jain** in his written representation received through email dated 27th October, 2021 inter-alia submitted as under:-

- a. The Complainant wanted to gain experience from the Respondent Firm and joined the same. She was irregular at work and wanted only experience on paper. She joined some other firm without informing him. She informed about her new job to ICAI and not to him, that too after a long delay.
- b. The Respondent was asked to pay late fees by ICAI, alleging late filing, for no fault on his part and that was what disturbed him. The same is the cause of delay.
- c. The Respondent never used Complainant's name to take any credit for empanelment as auditors. The facts are verifiable from ICAI records. The Respondent had informed ICAI that he would relieve her since the day ICAI would ask him. The Respondent had not misbehaved in any manner in this whole case.

6. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Sheetal Jain**.



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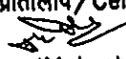
7. As per the Findings of the Board as contained in its report, no formal letter of appointment was issued by CA. Sheetal Jain to the Complainant for being appointed as the paid assistant with his firm and similarly, the Complainant also left the firm w.e.f. 1st November 2016 on verbal intimation. However, subsequently, the Complainant vide email dated 10th August 2017 followed by reminder email dated 12th August 2017 requested CA. Sheetal Jain to relieve her from his firm with effect from 1st November 2016 which was duly received by CA. Sheetal Jain and responded vide email dated 21st August, 2017. However, till date, the Complainant had not been relieved by CA. Sheetal Jain from his firm. Further, CA. Sheetal Jain failed to provide any plausible justification for not relieving the Complainant from his firm from the position of the Paid Assistant even after receipt of repeated reminders and correspondence from the Complainant and the Institute. CA. Sheetal Jain unnecessarily complicated the issue of relieving the Complainant from his firm, being one of professional colleagues. Thus, it has already been held that CA. Sheetal 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. The Board, through further information received at the stage of award of punishment observed that neither any application was raised by the Respondent for removal of the Complainant as his paid assistant nor any request was submitted or saved by the Complainant in the Member/Firm records/SSP of ICAI. Further even if credit of CA. Astha Jain (MRN 541354) as paid CA was not considered for Bank Branch Auditors' Panel for the respective years even then the Respondent firm would have been categorized in same category.

8. Upon consideration of the facts of the case, the consequent misconduct of CA. Sheetal Jain (M.No.406565) and keeping in view his oral and written representation before it, the Board decided to Reprimand CA. Sheetal Jain (M.No.406565).

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

Date: 1st February, 2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy


मुकेश कुमार मिश्रा / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, 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-247/17/DD-288/17/BOD/545/2020]

CORAM:

CA. Prasanna Kumar D., Presiding Officer

(attended physically from ICAI Bhawan, BKC, Mumbai)

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

(attended through VC)

CA. Durgesh Kumar Kabra, Member

(attended physically from ICAI Bhawan, BKC, Mumbai)

In the matter of:

CA. Astha Jain (M.No.541354)

353, Pocket J

Sarita Vihar

Delhi-110 076

....Complainant

-Vs-

CA. Sheetal Jain (M.No.406565)

235, Patel Nagar

Near Ramlila Ground

Muzaffarnagar (U.P.)-251 001

....Respondent

DATE OF FINAL HEARING

: 30th January, 2021

PLACE OF HEARING

: ICAI Bhawan, BKC, Mumbai/through video conferencing

PARTIES PRESENT:

Complainant

: CA. Astha Jain (Through video conferencing)

FINDINGS:

Background of the case:

1. The brief background of the case is as under:-

- (a) The Complainant joined M/s Sheetal Jain & Associates (Respondent Firm) as a Paid Assistant w.e.f. 1st July, 2016 after verbal discussions with the Respondent. The Complainant was not getting any remuneration from the Respondent Firm

and upon discussions with the Respondent she left the firm on 1st November, 2016. Thereafter, on 15th November, 2016, the Complainant joined M/s P.K. Gaur and Associates and informed the Respondent accordingly.

- (b) M/s P.K. Gaur and Associates informed the Institute regarding the joining of the Complainant as their employee on 22nd February, 2017. The Complainant also informed the same to Institute vide her letter dated 3rd March, 2017 in response to Institute's letter dated 28th February, 2017.
- (c) Accordingly, the Institute vide its letter dated 27th March, 2017 and reminder dated 20th May, 2017 confirmed the above position from the Respondent. The Institute, thereafter, informed the Complainant that as per the letter dated 23rd May 2017 of the Respondent, the Respondent Firm has not accepted the resignation of the Complainant and she is still shown as Paid Assistant in the firm.

Charges alleged :

2. Against the aforesaid background, the following charges are alleged against the Respondent:-
 - (a) The Complainant made repeated reminders to the Respondent vide her emails dated 10th August, 2017 and 12th August, 2017 to relieve her name from the Respondent Firm which the Respondent has failed to do.
 - (b) As per letter dated 23rd May, 2017 addressed by the Respondent to the Institute, the Respondent Firm placed the name of the Complainant in the CAG empanelment in February, 2017 despite the fact that the Complainant was not working with the Respondent Firm since 1st November, 2016.

The Board while considering the Prima Facie Opinion dated 21/11/2019 formed by the Director (Discipline) in the aforesaid case especially the emails addressed by the Respondent to the Complainant observed that the conduct of the Respondent in dealing with his professional colleagues was not proper. Accordingly, the Board did not agree with the prima facie opinion of the Director (Discipline) 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 and decided 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 directed the office to seek information from the regional office of ICAI as to when the relieving letter was given by the Complainant to it.

Proceedings held:

3. At the time of hearing held on 30th January, 2021, the Board noted that the Complainant was present before it through video conferencing. However, neither the Respondent appeared before it nor sent any request for adjournment. The Board also noted that the case was part heard and had been adjourned on 20th January 2021 on account of the request of the Respondent. Thus, the Board decided to conclude the

hearing in the case and the Respondent was set ex-parte. Due credence was given to the submissions presented by the Complainant and the documents available on record.

Observations and findings of the Board:

4. The Board on consideration of the submissions and documents available on record noted as under:-
 - a. The Respondent did not issue any appointment letter to the Complainant while appointing her as Paid Assistant with his firm M/s Sheetal Jain & Associates on 01/07/2016.
 - b. The Complainant intimated the Respondent verbally about leaving his firm and joining M/s P.K. Gaur w.e.f. 1st November, 2016. She also submitted copy of bank statement to substantiate her claim that she was getting salary from M/s P.K. Gaur since November, 2016.
 - c. The Complainant vide letter dated 3rd March 2017, received by ICAI on 7 March 2017 informed about her discontinuation with the Respondent firm with effect from 1st November 2016. The delay in intimation was on account of engagement in audit assignments.
 - d. The Institute vide letter dated 27th March, 2017 followed by reminder letter 20th May, 2017 requested the Respondent to submit leave confirmation of the Complainant along with leave condonation fees of Rs. 500/- (for delay of 96 days) for the purpose of updation of Institute's records.
 - e. The Respondent vide letter dated 23rd May 2017 informed the Institute that the Complainant did not inform before leaving the Respondent firm and that they have not issued any relieving letter till date as the Complainant did not approach for the same.
 - f. The Complainant vide email dated 10th August 2017 followed by reminder email dated 12th August 2017 again requested the Respondent to relieve her from his firm with effect from 1st November 2016. In response thereto, the Respondent vide email dated 21st August, 2017 informed the Complainant that he/his firm will be issuing relieving letter from the date of official intimation to them by the ICAI.
 - g. As per Written Statement of the Respondent, it can be clearly made out that there was difference between the Complainant and the Respondent on account of non-observance of office timings by the Complainant and frequent absenteeism. Further, the Respondent contended in his written statement that the Complainant failed to intimate the Respondent about leaving of his Firm w.e.f. 01/11/2016 and received the monthly remuneration through cash only.
 - h. As per information received from the ORO, ICAI, the Complainant addressed letter dated 03/03/2017 to the Institute in confirmation of her joining as paid assistant with M/s. P.K. Gaur & Associates w.e.f. 15/11/2016. The Complainant also submitted therein that she discontinued to work as paid assistant with M/s. Sheetal & Associates (Respondent firm) from 1st November, 2016.

5. Considering the above, the Board, viewed that no formal letter of appointment was issued by the Respondent to the Complainant for being appointed as the paid assistant with his firm and similarly, the Complainant also left the firm wef 1st November 2016 on verbal intimation. However, subsequently, the Complainant vide email dated 10th August 2017 followed by reminder email dated 12th August 2017 requested the Respondent to relieve her from his firm with effect from 1st November 2016 which was duly received by the Respondent and responded vide email dated 21st August, 2017. However, till date, the Complainant had not been relieved by the Respondent from his firm. Further, the Respondent failed to provide any plausible justification for not relieving the Complainant from his firm from the position of the Paid Assistant even after receipt of repeated reminders and correspondence from the Complainant and the Institute. The Board observed that the Respondent unnecessarily complicated the issue of relieving the Complainant from his firm, being one of his professional colleagues and tried to gain advantage by showing her association with the Respondent firm in the CAG empanelment Form. The Board was of the view that the behaviour of the Respondent in dealing with his professional colleagues was certainly neither ethical nor courteous and needs to be condemned.
6. Thus, having regard to the attendant circumstances, the documents and submissions on record, the Board is of the considered view that the Respondent has brought disrepute to the profession and is thus, 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.

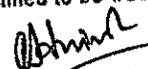
CONCLUSION:

7. 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)**

Certified to be true copy



R.S. Srivastava
Assistant Secretary,
Disciplinary Directorate

The Institute of Chartered Accountants of India,
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