



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

PR/87/19/DD/140/2019/BOD/585/2020

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. Ishan Gupta, Samana

...Complainant

-Vs.-

CA. Pankaj Kumar (M. No. 517004)

M/s. Pankaj J. Kumar & Co. (FRN No. 032554N), Samana

...Respondent

[PR/87/19/DD/140/2019/BOD/585/2020]

MEMBERS PRESENT:

CA. Prasanna Kumar D., Presiding Officer

(In person)

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

(Through video conferencing)

Date of Final Hearing: 9th February, 2022

1. The Board of Discipline vide Report dated 10th January, 2022 held that CA. Pankaj Kumar (M. No. 517004) 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. Pankaj Kumar 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. Pankaj Kumar 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. Pankaj Kumar.
5. As per the Findings of the Board as contained in its report, CA. Pankaj Kumar accepted the appointment as Tax auditor of M/s Vardhman Rice Mills ("Firm") for the Financial Year 2017-18 without first communicating with the Complainant who was the previous auditor of the Firm. Further, CA. Pankaj Kumar admitted his mistake in his written submissions made vide his email dated 04/09/2019 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.

DS



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Pankaj Kumar is Guilty of Professional Misconduct 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. Pankaj Kumar (M. No. 517004)** and keeping in view his oral representation before it, **the Board decided to Reprimand CA. Pankaj Kumar (M. No. 517004).**

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

Date: 11th February, 2022

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


बिषा नाथ 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
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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/87/19/DD/140/2019/BOD/585/2020]

CORAM: (Present 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. Ishan Gupta
Partner, M/s HR Mittal & Co.,
Tehsil Complex to BSNL Exchange Road
Samana-147101

....Complainant

-Vs.-

CA. Pankaj Kumar (M. No. 517004)
M/s Pankaj J. Kumar & Co. (FRN No. 032554N)
368/16, Munira Mohalla,
Samana-147101

....Respondent

DATE OF FINAL HEARING : 28th September, 2021
PLACE OF HEARING : Through video conferencing

PARTIES PRESENT (Through video conferencing):

Respondent : CA. Pankaj Kumar

Findings:

Charge alleged:

1. The allegation against the Respondent is that he accepted the appointment as Tax auditor of M/s Vardhman Rice Mills (hereinafter referred to as the "Firm") for the

Financial Year 2017-18 without first communicating with the Complainant who was the previous auditor of the Firm.

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 concluded the proceedings.

Submissions of the Respondent:

3. The Respondent submitted that he has checked his records and documents regarding communication with previous auditor (Complainant) about tax audit assignment of M/s Vardhman Rice Mills and found that communication was missed from his side with previous auditor in the wake of rush period of tax audit assignments. The Respondent also admitted his mistake and further stated that he had done the audit with proper due diligence.

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 was the tax auditor of the Firm for the FY 2016-17. The Respondent vide letter dated 13/11/2019 placed on record his appointment letter dated 26/08/2018 with M/s. Vardhman Rice Mills (Firm) wherein it was specifically mentioned as under:

"Last Audit has been conducted by M/s. H.R. Mittal & Co., Chartered Accountants Tehsil Complex to BSNL exchange Road, Samana 147101 Patiala (Address)" (i.e. the Complainant Firm).

4.2 The Board further noted that the Complainant placed on record the Balance Sheet as on 31/03/2018, Profit & Loss Account for the year ended 31/03/2018 and Manufacturing and Trading Account for the year ended 31/03/2018 of M/s. Vardhman Rice Mills alongwith his complaint wherein it was shown that the Respondent has conducted the audit and issued his audit report. Further, the Complainant vide his letter dated nil received on 06/11/2019 submitted the copy of the appointment letter dated 11/09/2018 issued to him (Complainant Firm) by the Firm appointing him as the tax auditor of the Firm for the FY 2017-18.

4.3 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 noted that the Respondent admitted his mistake in his written submissions made vide his email dated 04/09/2019 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 and submissions put forth by the Complainant and the Respondent, 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 First Schedule to the Chartered Accountants Act, 1949 for accepting appointment with the aforesaid Firm without first communicating with the Complainant as discussed herein above.

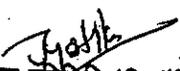
Conclusion:

6. 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)

Date: 10th January, 2022


प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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