



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

[PR/115/2015/DD/140/2015/DC/678/2017]

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

[PR/115/2015/DD/140/2015/DC/678/2017]

In the matter of:

Sh. Vaneet Bansal

Upper Floor, The Peachtree

Block-C, Sushant Lok-I,

Sector- 43,

Gurgaon- 12 2015

.....Complainant

Versus

CA. Rishi Kapoor (M. No. 511912)

Rishi G Kapoor & Co. (FRN 022347N)

Chartered Accountants,

House No. WE-55,

Rama Park Road, Mohan Garden

Uttam Nagar

New Delhi-11 0059

.....Respondent

MEMBERS PRESENT:

1. CA. Nihar N Jambusaria, Presiding Officer
2. Ms. Nita Chowdhury, I.A.S (Retd.), Government Nominee
3. CA. G. Sekar, Member
4. CA. Manu Agarwal, Member

Date of Final Hearing: 25th June, 2021 (through Video conferencing)

Place of Final Hearing: ICAI, New Delhi

1. That vide findings dated 03rd February, 2020 (copy enclosed) under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was inter-alia of the opinion that **CA. Rishi Kapoor (M. No. 511912)** (hereinafter referred to as the **Respondent**) was **GUILTY** of Professional Misconduct falling within the meaning of Part II of Second Schedule to the Chartered Accountant Act, 1949 with respect to the allegation that the Respondent being



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Finance Controller in M/s. Falck India Private Limited (hereinafter referred to as the 'Company') was involved in misappropriation of money by transferring the funds of the Company to his account in the guise of being his monthly salary which was much above his actual salary. It was also stated that in this fraud, the Respondent involved three more employees of the Company namely Mr. Rahul Joshi, Mr. Hemant Singh Rawat and Mr. Sunder Bisht.

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication dated 09th June, 2021 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 25th June, 2021.

3. The Committee noted that the Respondent neither appeared before it nor placed any request for adjournment. It was noted that notice dated 09th June, 2021 was returned back with postal remark "refused to accept" and that the same notice was also sent through e-mail to the Respondent on which he had occasionally communicated with office. It was noted that the present case was earlier fixed on 07th April 2021 wherein the Respondent opted not to appear before the Committee. It was noted that the Respondent had not appeared before it even at the stage of hearing under Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 despite obtaining adjournment. It was accordingly presumed that the Respondent had nothing to represent before the Committee in terms of proviso to Rule 19 (1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and that sufficient opportunity had already been given to the Respondent to represent before the Committee on its findings which Respondent failed to avail. Accordingly, the Committee decided to proceed in the matter.

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4. The Committee noted the documents/information available on record and irrespective of the fact as to the total monies siphoned off or the matter quashed/pending in any Court of Law, the fact remained that there were two different files sent by the Respondent, one to the management of the Company seeking approval for the salary payments for the month of January 2015 and the other which the Respondent sent to bank for making the payment against the said Salary Sheet. Similar facts are available on record for the month of February, 2015 as well. It was noted that the amount approved against the salary of three employees including the Respondent and the authorisation sent by the Respondent to the bank for payment to the said individuals were different as given in the table below:

S. N.	Month	Employee Name	Amount in mail sent for Authorisation	Amount in mail sent to bank for payment
1	January, 2015	Mr. Rahul Joshi	33,788/- (C-17 to C-18)	1,058,273/- (C-19 to C-20)
		Mr. Rishi Kapoor (Respondent)	97,786/- (C-17 to C-18)	1,50,867/- (C-19 to C-20)
		Mr. Hemant Singh Rawat	24,997/- (C-17 to C-18)	37,267/- (C-19 to C-20)
2	February, 2015	Mr. Rahul Joshi	33,788/- (C-21 to C-22)	2,28,376/- (C-23 to C-24)
		Mr. Rishi Kapoor (Respondent)	97,786/- (C-21 to C-22)	1,50,867/- (C-23 to C-24)
		Mr. Hemant Singh Rawat	24,997/- (C-21 to C-22)	37,267/- (C-23 to C-24)

From the above, it was evident that the authorisation sent by the Respondent to Bank for payment of his and other two employees salary for January and February, 2015 was much above the actual figures approved by the Management. Moreover, the Respondent neither gave any clarification on the above charge in his written statement nor appeared before the



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Committee for making oral submissions. Thus, in the opinion of the Committee, the charge of misappropriation of funds against the Respondent was established and that the Respondent instead of exercising due diligence while performing his duties as employee of the chose to misappropriate money.

5. Looking into above professional misconduct on the part of the Respondent, the Committee was of the view that said act of the Respondent was a breach of trust with his employer, thus, ends of justice could be met if punishment awarded is in commensurate with misconduct held and established against him. **Therefore, keeping in view the facts and circumstances of the case, material on record, and submissions of the Respondent before it, the Committee ordered that the name of the Respondent i.e CA. Rishi Kapoor (M. No. 511912), New Delhi be removed from register of members for a period of Five (05) Years and a fine of Rs. 3,00,000/- (Rupees Three Lakh only) be also imposed upon him to be paid within 30 days of receipt of this order.**

Sd/-

(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

Sd/-

(MS. NITA CHOWDHURY, I.A.S RETD.)
GOVERNMENT NOMINEE

Sd/-

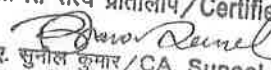
(CA. G. SEKAR)
MEMBER

Sd/-

(CA. MANU AGARWAL)
MEMBER

Date: 28/01/2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy


सीए. सुनील कुमार / CA. Suneel Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विकास नगर, शाहदरा, दिल्ली- 110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings cum Order under Rule 18(17) and Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

[Ref. No. PR-115/2015DD/140/2015-DC/678/2017]

In the matter of:

Sh. Vaneet Bansal

Upper Floor, The Peachtree
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CA. Rishi Kapoor ... (M. No. 511912)

Rishi G Kapoor & Co. (FRN 022347N)

Chartered Accountants,
House No. WE-55,
Rama Park Road, Mohan Garden
Uttam Nagar
New Delhi-110059

.....Respondent

MEMBERS PRESENT:

Shri Jugal Kishore Mohapatra, I.A.S.(Retd.), Government Nominee & Presiding Officer
Ms. Rashmi Verma, I.A.S. (Retd.), Government Nominee,
CA. Babu Abraham Kallivayalil, Member
CA. Dayaniwas Sharma, Member

DATE OF FINAL HEARING : 17.12.2019 (Decision taken on 03.02.2020)

PLACE OF FINAL HEARING : ICAI, Delhi

PARTIES PRESENT:

Counsel for the Complainant : Shri Anant Malik, Advocate

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. The Committee noted that the hearing fixed on 17th October, 2019 was adjourned at the request of the Respondent. The next hearing fixed on 21st November, 2019 was adjourned in order to provide final opportunity to both the parties to the case.

1.1 The Committee noted that on the day of hearing i.e. 17th December, 2019, the Committee noted that the Respondent was not present. The Counsel for the Complainant was present. Since last hearing was adjourned in order to provide final opportunity to both the parties and there was no request for adjournment of hearing, the Committee decided to continue with the proceedings ex-parte the Respondent. The Counsel sought adjournment which was denied by the Committee and he was asked to reappear at a later part of the day after due preparation. Thereafter, the hearing was resumed and the Counsel for the Complainant made his submissions. The Committee also raised questions to the Counsel for the Complainant. After hearing submissions, the Committee directed the Counsel for the Complainant to submit an affidavit and such other documents in support of his submission within two weeks after which the Committee decided to conclude the hearing in the above matter.

2. The Committee observed that in spite of directions, the Counsel for the Complainant did not submit copy of affidavit and documentary evidence in support of the charges levelled against the Respondent.

CHARGES IN BRIEF AND FINDINGS OF THE COMMITTEE:-

3.1 The Respondent was appointed for the position of Manager, Finance and Accounts with effect from 09.04.2012 and then promoted to the position of Finance Controller in the Falck India Private Limited (hereinafter referred to as the "**Complainant Company**") with effect from April 1, 2014.

3.2 The Complainant stated that the bank statements of the account of the Complainant Company for January and February 2015 shockingly reveals that payments involving large sums of money were being made and transferred to the account of the Respondent in the guise of being his monthly salary. These amounts were in stark contrast to the salary he was

actually entitled to receive and also much higher than the salary payment approval that was given by the Managing Director of the Complainant Company.

3.3 The Respondent being an authorized signatory on behalf of the Company paid himself amounts which were much higher than his actual salary without any authorization. In this fraud, he involved three more employees of the Complainant Company.

3.4 The Respondent had also started a Company together with Mr. Rahul Joshi under the name and style of Titlis Travel Desk Private Limited (Set up on 29.05.2014).

3.5 While remaining as an employee of the Complainant Company and was also illegally siphoning funds from the account of the Complainant Company (on account of the services alleged and claimed to be done by Titlis Travel Desk Private Limited for the Complainant Company). These payments were made without any authorization or any agreement of Services with Titlis Travel Desk Private Limited.

3.6 It is suspected that the internal investigation is still pending completion, the total amounts being misappropriated in this manner is estimated to be around INR 1,50,00000 (Rupees One Crore Fifty Lakh only) for the financial year 2014-15 alone and that this may also have extended to previous years.

3.7 When the Respondent was confronted by the management of the Complainant Company and asked to explain his acts and the monies being siphoned off, he did not have any worthwhile justification and he in fact even admitted his mistake and culpability in the said acts. The Respondent stated that he and the other employees had returned the monies by way of cash to the Complainant Company. However, upon a verification of the cash balance and accounts at the Complainant Company, it has come to the notice of the Complainant Company that no such amounts were ever returned to the Complainant Company and that the Respondent only stated the same as a blatant lie and a means to cover up his wrongful and dishonest acts.

4. The Committee noted that neither the Complainant nor the Respondent made their written submission on the prima facie opinion. However, on perusal of the Prima Facie Opinion, the Committee noted that the Respondent made the following submissions at prima facie stage:

4.1 The Complainant has already filed criminal complaint under various sections of Indian Penal Code regarding the same issue which is pending before the Hon'ble Court of Ms. Manisha Khurana Kakkar, Ld. M.N. Saket, New Delhi. The complaint submitted by the Complainant is almost the same as the one already filed by him at Defence Colony Police Station on 27.04.2015.

4.2 It is extremely important to share here that the Hon'ble Court of Ms. Manisha Khurana Kakkar, Ld. M.M., Saket, New Delhi after going through the report submitted by the police authorities and after hearing the detailed arguments advanced by the complainant passed the order and dismissed the complaint of the Complainant under Section 156(3) of IPC.

4.3 In view of above, the Respondent requested not to take any further action on the complaint as the same complaint was already dismissed by the order of judicial authority.

5. The Counsel for the Complainant made his verbal submissions before the Committee as under:-

5.1 The Complainant stated that the Complainant Company is a subsidiary of Denmark based Company. The management of Denmark Company received a call from some employee in India based Company regarding certain financial irregularities running in the Company. From the internal investigation, few issues arose from the bank account statement. The Complainant stated that the Respondent used to seek approval for disbursement of salary but he manipulated those amounts and excess amounts were quoted to the Bank. The Bank was debiting the excess amount. The Complainant stated that the Respondent was seeking approval of X amount from the management of the Company but X plus amount was disbursed.

5.2 The Complainant stated that the Respondent had floated a company with one of employees with the name, Titlis Travel Desk Private Limited. The Complainant stated that without any approval from the Company, amounts were transferred to Titlis Travel Desk Private Limited. The Respondent took leisure trips on the expense of the Company.

5.3 As regard the question as to whether there was any official contract with Titlis Travel Desk Private Limited, the Counsel for the Complainant stated that they had no official contract with

the said company. The Counsel for the Complainant also stated that the Company neither booked any ticket for Titlis Travel Desk Private Limited nor for its employees. The Counsel stated that address of Titlis Travel Desk Private Limited is the official address of the Respondent.

5.4 To a question as to why criminal case has been decided against the Company, the Counsel for the Complainant stated that they approached the Police to register the FIR but FIR was not registered and then they approached the Court by filing an application. However, the Hon'ble Court dismissed the application saying that *prima-facie* they are of the opinion that this is essentially a case for documents. Thus, police investigation is not required. After that they have challenged that application that the FIR should have been ordered because it involves the money trail. The Counsel stated that cases are still on-going to seek the remedies.

5.5 As regard the internal investigation findings, the Counsel for the Complainant stated that the initial findings are about the bank account statement. The Respondent also registered some false cases against them. All those cases as on date have been closed and one particular case has been quashed by the Hon'ble High Court of Punjab & Haryana. Pursuant to that certain actions were initiated and again the Complainant approached the P & H High Court and they found no merit and the case is quashed. So, Court results are in favour of the Complainant.

5.6 The Counsel for the Complainant stated that the Respondent did not return the money in cash and there is no documentary evidence available with him. To a question as to whether forensic audit has been done, the Counsel replied in affirmative.

5.7 During the course of hearing, the Committee observed that there was nothing on record as to how much amount was siphoned off by the Respondent. Further, the Company could not bring on record copy of appointment letter of the Respondent. The Complainant stated that PF record and other documents have been stolen from the Company.

5.8 After hearing the submissions, the Committee directed the Counsel for the Complainant to file an affidavit with regard to the submissions made by him before the Committee including

information about internal and forensic investigation, details of amount approved and taken and copy of appointment letter.

6. The Committee noted that the Counsel for the Complainant made submissions before the Committee but he failed to file the affidavit in support of his verbal contentions. Hence, there was no new documentary evidence brought on record by both the Complainant and the Respondent. Hence, the Committee decided to go through the documents on record. From the documents on record, it is seen that the Respondent was in employment with the Complainant Company as Finance Controller from 01.04.2014 and was also holding the authority to operate the bank account of the Complainant Company.

6.1 The first charge is related to misappropriation of money by transferring the fund of the Company to his account in the guise of being his monthly salary which was much above his actual salary. It was also been alleged that in this fraud, the Respondent involved three more employees of the Complainant Company namely Mr. Rahul Joshi, Mr. Hemant Singh Rawat and Mr. Sunder Bisht. It is seen that the Complainant has brought on record two files sent by the Respondent, one sent by him to the Complainant for his approval against the salary payment for the month of January 2015 and the other which he sent to bank for making the payment against the salary for the month of January 2015. Similarly, the Complainant has also brought on record the two files related to the month of February, 2015. On perusal of the same, it is seen that the amount approved against the salary of three employees including the Respondent and the authorisation sent by the Respondent to the bank for payment against the same head are as under:

S. N.	Month	Employee Name	Amount in mail sent for Authorisation	Amount in mail sent to bank for payment
1	January, 2015	Mr. Rahul Joshi	33,788/- (C-17 to C-18)	1,058,273/- (C-19 to C-20)
		Mr. Rishi Kapoor (Respondent)	97,786/- (C-17 to C-18)	1,50,867/- (C-19 to C-20)
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	Mr. Hemant Singh Rawat	24,997/- (C-21 to C-22)	37,267/- (C-23 to C-24)
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From the above table, it is coming out that the authorisation sent to Bank for payment by the Respondent was much above the actual approval he was having against the salary of above three employees for the month of January, 2015 and February, 2015. Moreover, the Respondent neither gave any clarification on the above charge in his written statement nor appeared before the Committee for making oral submissions. Though, the Complainant has failed to produce the copy of appointment letter of the Respondent and stated that the same has been stolen by the Respondent and his accomplices from the Company premises, yet in the light of the above and in absence of any submissions/ documents produced by the Respondent, the Committee felt that benefit cannot be given to the Respondent as there was difference between amount approved and sent to the bank for payment. Accordingly, the Committee decided to hold the Respondent guilty with respect to above charge.

6.2 In respect of second charge related to the Company, Titlis Travel Desk Private Limited, it is seen that the Complainant has brought on record the copy of bank statement of Complainant Company with Punjab National Bank wherein the following payments have been made to Titlis Travel Desk Pvt.Ltd :

Date	Amount	Mode of Payment	Page Reference no.
13.08.2014	2,00,000	NEFT	C-27
27.09.2014	5,50,000	RTGS	C-28
24.11.2014	2,00,000	RTGS	C-29

Thus from the above, it is evident that certain amount have been transferred from the account of Complainant Company to Titlis Travel Desk Private Limited. From the documents available on record, it is also clearly coming out that the Titlis Travel Desk Private Limited was a Company incorporated by the Respondent along with one Mr. Rahul Joshi on 29.05.2014 and he is director in that Company since inception. However, there was nothing on record to show that these payments were made by the Respondent fraudulently. Hence, the Committee decided to hold the Respondent not guilty with respect to above charge.

Conclusion:-

7. Thus in the considered opinion, the Respondent is held **GUILTY** of Professional Misconduct falling within the meaning of Clause (4) of Part II of Second Schedule to the Chartered Accountants Act, 1949 in respect of charge related to excess payment of salary.

7.1 In respect of charge related to Titlis Travel Desk Private Limited, the Respondent is held **Not Guilty** of professional misconduct falling within the meaning of Clause (4) of Part II of Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-

(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))
GOVERNMENT NOMINEE & PRESIDING OFFICER

Sd/-

(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Sd/-

(MS. RASHMI VERMA, I.A.S. (Retd.))
GOVERNMENT NOMINEE

Sd/-

(CA. DAYANIWAS SHARMA)
MEMBER

DATE: 03rd February, 2020
PLACE: New Delhi

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate

The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002