



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

PR/78/16/DD/111/2016/BOD/567/2020

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. Nirmal Jagwani (M. No. 060371), Kolkata

...Complainant

-Vs.-

CA. Niraj Kumar Verma (M. No. 067163), Deoghar

...Respondent

[PR/78/16/DD/111/2016/BOD/567/2020]

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 11th February, 2021 was of the opinion that **CA. Niraj Kumar Verma (M. No. 067163)** 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. On receipt of the Findings of the Board, **CA. Niraj Kumar Verma** submitted his written representation dated 9th June, 2021 on the Findings of the Board.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Niraj Kumar Verma** and communication dated 3rd 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. **CA. Niraj Kumar Verma** submitted his further written representation received through email dated 7th February, 2022 on the Findings of the Board.
3. **CA. Niraj Kumar Verma** appeared before the Board on 9th February, 2022 through video conferencing and made his oral representation thereat.
4. **CA. Niraj Kumar Verma** in his written representation, inter-alia, stated as under:-
 - a. **CA. Niraj Kumar Verma** transferred firm's money from current account number 50103504363 to his personal bank account by net banking online transfer, as per the internal arrangement of the Firm.
 - b. The Complainant started the proprietorship firm in the year 2005 and opened the current account with United Bank of India on 28/09/2005. However, the Firm was converted into partnership firm in the year 2009 with two partners i.e. the Complainant and the Respondent but the said account remained proprietorship account operated by the

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Complainant alone till it was frozen on 26/10/2016 by **CA. Niraj Kumar Verma** due to internal dispute.

- c. The action of the opening of a new bank account with Union Bank of India, Camac Street Branch has been triggered by the Complainant who did not allow him to operate a bank account in his custody, which should have been converted as a partnership account rather than remaining as a bank account of proprietorship firm.
- d. The Complainant told **CA. Niraj Kumar Verma** that account belongs to him so he did not allow him to operate his proprietorship bank account as a result of which the other partners decided to open a separate Bank Account so that professional fees should be collected thereat.
- e. The Complainant never appeared before the Board to defend his case even in person or through electronic means despite that there is the ex-parte judgment pronounced against **CA. Niraj Kumar Verma** which as per law is not justifiable.

5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Niraj Kumar Verma**.

6. As per the Findings of the Board as contained in its report, it has been established that **CA. Niraj Kumar Verma** has secretly opened a new Current Account No. 401601010519761 in the name of M/s N. Jagwani & Co. with Union Bank of India, Camac Street Branch, Kolkata without authorization of any of the partners of firm. As per banking clause, signature of both the partners were required to operate bank account but **CA. Niraj Kumar Verma** fraudulently prepared false partnership deed wherein only he and CA. Vivek Kumar Jaiswal were shown as partners. **CA. Niraj Kumar Verma** fraudulently did the signature of other partner of firm CA. Vivek Kumar Jaiswal only to open bank account along with the partnership deed. Further, the Firm's address was shown as **CA. Niraj Kumar Verma's** residential address. The Board noted that **CA. Niraj Kumar Verma** had opened a new bank account with Union Bank of India in the firm's name without seeking any authorisation and approval of existing partners. The Board was also of the view that the submission of **CA. Niraj Kumar Verma** that on account of harassment done by the Complainant, he was compelled to take such action is also not acceptable as in case he had any partnership dispute then he should have approached the appropriate Forum for the settlement of the same and not resorted to unfair means. Such an act on the part of **CA. Niraj Kumar Verma** is clearly unbecoming of a Chartered Accountant and needs to be corrected so as to maintain the Standards of integrity. Thus, the Board held that **CA. Niraj Kumar Verma** 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.

7. Upon consideration of the facts of the case, the consequent misconduct of **CA. Niraj Kumar Verma (M. No. 067163)** and keeping in view his oral and written representation before it, the Board decided to Reprimand **CA. Niraj Kumar Verma (M. No. 067163)** and also imposed a Fine of Rs.

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25,000/- (Rupees Twenty Five Thousand only) upon him payable within a period of 60 days from the date of receipt of the Order.

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

DATE: 11th February, 2022

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

अरुण कुमार / Arun Kumar
कार्यकारी अधिकारी / Executive Officer
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, Shahdra, 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/78/16/DD/111/2016/BOD/567/2020]

CORAM:

CA. Prasanna Kumar D., Presiding Officer

(attended physically from ICAI, BKC, Mumbai)

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

(attended through VC)

CA. Durgesh Kumar Kabra, Member

(attended physically from ICAI, BKC, Mumbai)

In the matter of:

**CA. Nirmal Jagwani (M.No. 060371),
651/A, Block-0, 2nd Floor,
New Alipore,
Kolkata-700053**

....Complainant

Versus

**CA. Niraj Kumar Verma (M. No. 067163) in Re:
404, Saraswati Tower,
C/o Rakesh Kumar Keshri,
Duhi Sah Road, Jhounsa Gari,
Near Nokia Service Centre, Jharkhand
Deoghar-814112**

....Respondent

DATE OF FINAL HEARING

: 29th January, 2021

PLACE OF HEARING

: physically/through video conferencing

PARTIES PRESENT:

Respondent

: CA. Niraj Kumar Verma (through VC)

FINDINGS:

Background of the case

1. The Complainant started a Proprietorship firm M/s N. Jagwani & Co. ("firm") in the year 2000. Thereafter, it was converted into a Partnership Firm in the year 2009. There were three partners in the firm (a) The Complainant (b) The Respondent (c) CA. Vivek Kumar Jaiswal. Since last few months there were various disputes going on between the Complainant and the Respondent. The Complainant was the concurrent auditor of Union bank of India, Camac Street Branch, Kolkata where he came to know that

the Respondent has opened a current account with the above mentioned bank in firm's name without any authorization and, thereafter, he requested branch manager to produce documents on the basis of which such current account was opened in firm's name.

Charge Alleged

2. The following charges were alleged against the Respondent:-

- (i) The Respondent has secretly opened a new Current Account No. 401601010519761 in the name of M/s N. Jagwani & Co. With Union Bank of India, Camac Street Branch, Kolkata without authorization of any of the partners of firm. As per banking clause, signature of both the partners were required to operate bank account but he fraudulently prepared false partnership deed wherein only the Respondent and CA. Vivek Kumar Jaiswal were shown as partners. He has fraudulently done the signature of other partner of firm CA. Vivek Kumar Jaiswal only to open bank account along with the partnership deed. Further, the Firm's address was shown as Respondent's residential address.
- (ii) All the fees of the bank audit, concurrent audit and other audits were deposited by the Respondent in the above mentioned account of the Union Bank of India and all the surplus balance from this account was transferred to his personal saving account. The Complainant also submitted a letter dated 11th February, 2015 to branch requesting them to cancel the net banking and further requested that the transactions to be operated jointly by the Complainant and the Respondent.
- (iii) The Respondent fraudulently forged the signature of the Complainant in Form 18 for resignation from M/s. V Kejriwal & Co.
- (iv) The Respondent continuously tried to change head office and branch office address of firm by forging signature of other partners which he informed to EIRC vide letter dated 15.01.2015 and 30.11.2015.
- (v) The Respondent transferred firm's money from firm's current account with Allahabad bank account no. 50103504363 to his personal bank account by net banking online transfer without authorization of partners and hence, did not share firm's share of profit with other partners.
- (vi) The Respondent took away all the firm's books of accounts and bills and vouchers from firm's head office to unknown location and did not return the same.
- (vii) The Respondent took away 2 desktop computers and 1 laptop from head office to his residential address which contained all the confidential cliental and firm's accounting data and regularly misused cliental financial data from there. Both the computers were in firm's name and laptop in the Complainant's name.
- (viii) The Respondent has protected the Firm PAN No. with his digital signature on Income Tax Website and is submitting Income Tax Return without the consent of other partner and also claiming Income Tax refund.

The Board noted that the Director(Discipline) in his prima facie opinion had held the Respondent prima facie guilty only in respect of charge specified at (i) above and the said view had been accepted by the Board of Discipline. Accordingly, the Respondent has been examined during enquiry in respect of the charge specified at (i) above.

Proceedings held:

3. During the hearing held on 29th January, 2021, the Respondent appeared before the Board through video conferencing. The Board also noted that the Complainant vide email dated 27th January 2021 stated that whatever financial and emotional damage the Respondent wanted to do, has already been done and cannot be undone, the Respondent has already resigned from his firm and thus requested that, if possible, the disciplinary action initiated against the Respondent may be withdrawn. The Board took into view the provisions of Rule 6 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Keeping in view the facts of the case, the Board decided to proceed ahead with the hearing in the case and duly considered the detailed submissions made by the Respondent.

Brief of Respondent's submissions:

4. The Board noted that the Respondent, in his defence, inter-alia, stated as hereunder:
- (a) N. Jagwani & Co. was a Proprietorship Firm constituted by the Complainant on 31.03.2000. The bank account (United Bank Of India, Tollygunge Branch, CA A/c No. - CA - 0675050004415) was maintained by the Complainant since inception. On the date of conversion of the firm from Proprietorship to Partnership dated 08.06.2009, the Complainant did not introduce the Respondent as a partner to the bank account maintained by him which indicated his malafide intention since inception. In response to Respondent's request for introduction, the Complainant told that these things will be done within six months. However, the same was not done even after elapse of one year. In the meanwhile, the Respondent got Central Bank's Concurrent Audit and another Concurrent Audit of Union Bank of India, Camac Street Branch, Kolkata as a result of which he had to receive the audit fees in the name of the firm in Firm's bank account which he was not allowed to do by the Complainant. Due to these circumstances, Respondent decided to open a separate bank account with Union Bank of India so that the Audit fees relating to his clients and Concurrent Audit Fees could be received in toto.
 - (b) In response to this, the Complainant tendered a resignation letter to Bank Of India pertaining to ongoing concurrent Audit at that point of time and also to Syndicate Bank, Union Bank & Andhra Bank as a result of which the Respondent had to suffer around Rs. 10 to 11 lacs financial loss.
 - (c) The Respondent's signature has been forged by the Complainant at various places.

Observations and findings of the Board:

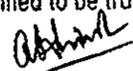
5. The Board on consideration of the submissions and documents available on record noted as under:
- a. The Respondent and CA. Vivek Kumar Jaiswal jointly made another partnership deed dated 10th July 2014 showing the retirement of the Complainant from the firm with effect from the same date and the other 2 partners continuing the firm which was used to open a bank account to receive the fees therein.
 - b. CA. Vivek Kumar Jaiswal, who is the third partner of the firm vide his letter dated 25th July, 2016 stated that he had joined the firm as a sleeping partner with no involvement in day-to-day operations with effect from 16th July, 2013. At the time of his joining the firm, the Respondent had brought several papers for signature at his residence and he signed all the documents in good faith without reading the detail. He was not confident whether these documents were same which were used to open new bank account no

- 401601010519761 with Union Bank of India and he had no intention of opening a new bank account with any bank along with the Respondent. It was not in his knowledge that internal dispute was going on between the other two partners of the firm, i.e., the Complainant and Respondent but once he came to know about the same, he decided to exit the firm and informed the firm and ICAI vide letter dated 20th January, 2015.
- c. The ICAI intimated the Complainant regarding the change in address of head office and opening of new branch being informed to the ICAI by the firm's partners i.e. the Respondent and CA. Vivek Kumar Jaiswal to which the Complainant raised an objection vide letter dated 15th Jan 2015 stating therein that he was unaware regarding any change in the address of his firm.
- d. On perusal of bank statement of Union Bank of India for the period 14th July, 2014 to 11th February 2015 and Partnership Deed, it is evident that bank account no. 401601010519761 with Union Bank of India was opened with the personal address of the Respondent and all the money deposited in bank account had been withdrawn by the Respondent only at various intervals. It is further noted that during the said period, major amount that was credited in the above mentioned bank account has been withdrawn by the Respondent in his own personal account and the said bank account had only a minor closing balance amounting to INR 296/-.
- e. The Respondent admitted the fact of opening the said bank account and also stated that the money transferred by him was his share from firm for Bank Concurrent Audit for which he did not provide any documentary evidence.
6. From the above, it is amply clear that Respondent had opened a new bank account with Union Bank of India in the firm's name without seeking any authorisation and approval of existing partners. The Board was also of the view that the submission of the Respondent that on account of harassment done by the Complainant, he was compelled to take such action is also not acceptable as in case he had any partnership dispute then he should have approached the appropriate forum for the settlement of the same and not resorted to unfair means. Such an act on the part of the Respondent is clearly unbecoming of a chartered accountant and needs to be corrected so as to maintain the standards of integrity.
7. Thus, having regard to the attendant circumstances, the evidence put forth by the parties to the case and the submissions on record, the Board is of the view that the Respondent has brought disrepute to the profession and accordingly, holds him 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:

8. 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
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